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United States District Court  
Northern District of California

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

**SUPERCELL OY,**  
Plaintiff,  
vs.  
**GREE, INC., ET AL.,**  
Defendants.

CASE NO. 17-cv-05556-YGR

**ORDER RE: MOTION TO DISMISS**

Re: Dkt. No. 26

Plaintiff Supercell Oy (“Supercell”) brings this patent infringement action against defendants GREE, Inc.; GREE International Entertainment, Inc.; GREE International, Inc.; and Funzio Games, Inc. (collectively “GREE”) alleging that defendants infringed two of plaintiff’s patents, namely U.S. Patent No. 9,106,449 (the “‘449 Patent”) and U.S. Patent No. 9,104,520 (the “‘520 Patent”). Now before the Court is defendants’ motion to dismiss plaintiff’s claims pursuant to Fed. R. Civ. Pro. 12(b)(6) on the ground that the asserted patents are not patent eligible under 35 U.S.C. § 101.

Having carefully reviewed the pleadings, the papers and exhibits submitted on this motion, the parties’ arguments at the hearing held on February 13, 2018, and for the reasons set forth more fully below, the Court **GRANTS** defendants’ motion to dismiss with regard to the ‘449 Patent and **DENIES** the motion with regard to the ‘520 Patent.

**I. PATENTS AT ISSUE**

**A. The ‘449 Patent**

The ‘449 Patent is titled “Method, Apparatus and System for Obtaining Logon Information.” (See Complaint, Ex. A, ‘449 Patent.) The specification describes a “method, apparatus, and system” for transferring logon information between a “value-added service such as an online game” (the “game client”) and Instant Messaging client (the “IM client”) via a “function

1 plug-in.” (‘449 Patent at 1:16-18, 27-28; Figs. 2, 3.)

2 In order to access an online game a user must first logon through an IM client. (‘449  
3 Patent at 1:33-42.) The conventional logon method required a “communication process” which  
4 was “pre-configured” between the game client and IM client. (*Id.* at 2:18-24.) This meant that  
5 any upgrade to the game client had to coincide with a simultaneous upgrade to the corresponding  
6 IM client so that a new communication process could be pre-configured between the two clients.  
7 As a result, “if a new game client [was] issued, the new game client [could] not communicate with  
8 IM client because no communication process [was] created between the new game client and the  
9 IM client.” (*Id.* at 2:24-27.) The “new game client [could] not log on the game server until a  
10 communication process [was] created between the new game client and the IM, for example, until  
11 the version of the IM client [was] upgraded.”<sup>1</sup> (*Id.* at 2:27-31.)

12 The ‘449 Patent purports to solve this problem by placing a “function plug-in” between the  
13 game client and IM client. Thus, independent claim 1 recites:

14  
15 A method for obtaining logon information, comprising:  
16 obtaining, by Instant Messaging (IM) client of a user, logon  
17 information which comprises a user account of the user when  
18 the user logs on the IM client;  
19 sending, by value- added service client of the user, a request for logon  
20 information when the user started the value-added service  
21 client;  
22 receiving, *by function plug-in*, the request for logon information from  
23 the value-added service client;  
24 sending, *by the function plug-in*, the request for the logon information  
25 to the IM client;  
26 returning, by the IM client, the logon information of the user *to the*  
27 *function plug-in*;  
28 sending, *by the function plug-in*, the logon information to the value-  
added service client; and  
sending, by the value-added service client, the logon information of  
the user obtained from the IM client to value-added service  
server to log on the value-added service center.

(*Id.* at 7:13-34 (emphasis supplied).) The patent further recites that the function plug-in sends requests for logon information to and receives logon information from an IM client through a

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<sup>1</sup> The conventional method employed four entities, namely an IM client, game client, game authentication server, and IM authentication server. (*Id.* at Fig. 1)

1 “common interface.” (*Id.* at Fig. 3.) This enables the game client to obtain logon information  
2 from the IM client via the function plug-in and ultimately log on to the game server to start a  
3 game. (*Id.* at 4:43-47; Fig. 3.)

4 Five claims depend on claim 1 (2 through 6) and add further limitations such as where: (i)  
5 “the request for the logon information is sent to the IM client through a common interface . . . and  
6 the logon information is received from the IM client through the common interface[;]; (ii) “the  
7 common interface is configured by the IM client[;]” (iii) the request for logon information is  
8 received from the value-added service client; and (iv) “loading the function plug-in before  
9 receiving the request for logon information from the [game] client.” (*Id.* at 7:34-8:7.)

10 Additionally, the ‘449 Patent contains one other independent claim, namely claim 7, which  
11 describes:

12 A system for obtaining logon information, comprising:

13 a value-added service client, adapted to send a request for logon information  
14 when a user starts the value-added service client, receive the logon information  
15 which comprises a user account of the user from a function plug-in, and send the  
16 logon information of the user to a value-added service server to log on the value-  
added service server;

17 the function plug-in, adapted to receive the request for the logon information from  
18 the value-added service client and send the request for the logon information to ~  
Instant Messaging (IM) client; receive the logon information from the IM client;  
19 send the logon information to the value-added service client;

20 the IM client, adapted to obtain logon information of the user when the user logs  
21 on the IM client, receive the request for the logon information from the function  
plug-in, and send the logon information to the function plug-in.

22 (*Id.* at 8:8–25.) Claim 7 has seven dependent claims (8 through 14). (*Id.* at 8:26–46.)

23 The ‘449 Patent states that placement of a function plug-in between the game client and IM  
24 client enables the game client to “obtain the logon information easily, flexibly and conveniently.”  
25 (*Id.* at 3:30-42.) Further, the method described in the ‘449 patents purport to improve  
26 “expansibility of the IM client” because the function plug-in can communicate with “various  
27 different IM clients” so long as the IM client is capable of providing a common interface. (*Id.* at  
28 3:22-48.) Therefore, when a game client is updated there is no need to develop a corresponding

1 update for the IM client. (*Id.* 3:47-50.)

2 **B. The ‘520 Patent**

3 The ‘520 Patent is titled “Method and Apparatus for Upgrading Application.” (*See*  
4 Complaint, Ex. B, ‘520 Patent.) Here, the specification recites a “method and apparatus” for  
5 upgrading computer applications “so as to avoid providing too many patch packages for the same  
6 version of an application.” (*Id.* at 1:66-2:2.) The ‘520 patent purports to enable developers to  
7 create a single installation patch which can be used to upgrade an application across multiple  
8 release channels (*e.g.*, an official channel, Internet Explorer, 360 Secure Browser). (*Id.* at 1:52-  
9 56.) The patent states that the method described therein reduces the “workloads of the developer”  
10 and makes it “much eas[ier] to maintain the application.” (‘520 Patent, 3:5-7; 3:15-17.)

11 Computer installation packages contain two elements, namely a “Data Portion” and  
12 “Customized Information Portion.” (*Id.* at 1:39, 3:9.) The Data Portion contains information  
13 regarding the specific incremental upgrade such as the new application content. For a given  
14 application upgrade the Data Portion of an installation package will be the *same* across all release  
15 channels. By contrast, the Customized Information Portion includes “customized information  
16 such as the releases channel of the installation package, a network traffic tip, an update mode,  
17 and/or a link to the release channel” which will necessarily be *different* across various release  
18 channels. (*Id.* 1:42-47, 4:7-9.)

19 Under the conventional process for upgrading an application, differences between the Data  
20 Portion of an old installation package and the Data Portion of a new installation package were  
21 “found out by using a bsdiff tool.” (*Id.* at 1:30-34.) Next, an installation upgrade patch containing  
22 only the additional information in the Data Portion of the new installation package was generated  
23 “using a dspatch tool.”<sup>2</sup> (*Id.* at 1:34-38.) The developer was then required to write a unique  
24 installation upgrade patch *for each release channel* by analyzing manually the Customized  
25 Information contained in the old installation package for each release channel and writing this

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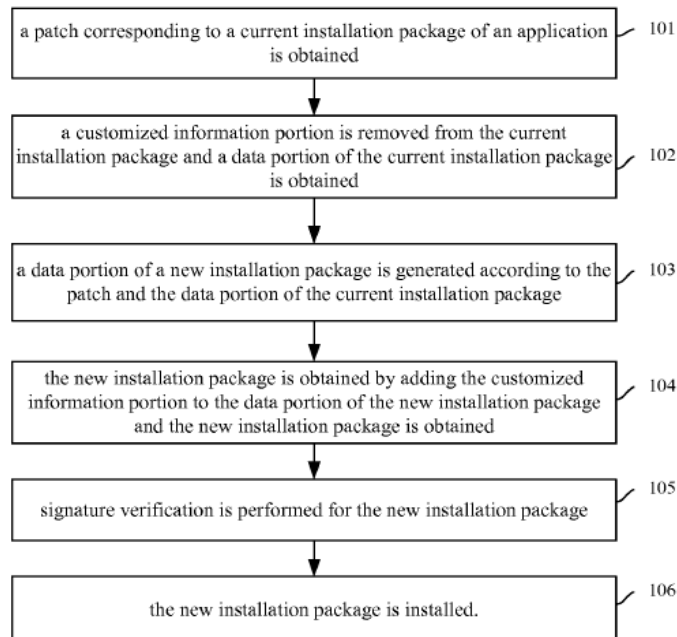
26  
27 <sup>2</sup> Bsdiff and bspatch tools are binary delta encoding formats. Delta encoding is a way of  
28 storing or transmitting data in the form of differences (deltas) between sequential data rather than  
complete files.

1 Customized Information into the new installation upgrade patch. As applications may be released  
2 on one hundred different channels, application developers needed to generate many different  
3 upgrade patches with the *same* Data Portions but *different* Customized Information Portions. This  
4 resulted in heavy workloads for developers, slower generation of upgrade patches, and more  
5 difficulty in maintaining applications. (*Id.* at 1:50-56.)

6 The '520 Patent recites a method for generating a new installation patch which has a Data  
7 Portion *different* from the old installation package and a Customized Information Portion which is  
8 the *same* as the old installation package for a given release channel. Independent claim 1  
9 describes:

10 1. A method for upgrading an application, comprising: *obtaining a patch package*  
11 *corresponding to a current installation package of an application; removing a*  
12 *customized information portion from the current installation package and obtaining*  
13 *a data portion of the current installation package; generating a data portion of a new*  
14 *installation package according to the patch package and the data portion of the*  
*current installation package; obtaining the new installation package by adding the*  
*customized information portion to the data portion of the new installation package;*  
*and installing the new installation package.*

15 (*Id.* at 9:65–10:8 (emphasis supplied).) Thus, the claim eliminates the need for developers to write  
16 manually unique installation patches for each release channels. By following the method  
17 described in the '520 Patent application developers can purportedly write a single patch package  
18 which can be applied across various release channels. The claimed method is illustrated below:



1 ('520 Patent at Fig. 1.)

2 Claim 1 of the '520 Patent is representative of all asserted claims. Nineteen claims depend  
3 on claim 1 and add limitations such as “where the information of the installation package  
4 comprises a Message-Digest Algorithm 5 (md5) value” (claim 3) and (ii) where “generating a data  
5 portion of a new installation package . . . comprises: reading a preset length of the data portion of  
6 the current installation package into memory and reading a present length of the patch into  
7 memory” (claim 8). (*Id.* at 10:18-29 (claim 3); 10:48-61 (claim 8).)

8 **II. LEGAL FRAMEWORK**

9 **A. Patent Eligibility Under § 101**

10 The scope of subject matter eligible for patent protection is defined in Section 101 of the  
11 Patent Act: “Whoever invents or discovers any new and useful process, machine, manufacture, or  
12 composition of matter, or any new and useful improvement thereof, may obtain a patent therefor,  
13 subject to the conditions and requirements of this title.” 35 U.S.C. § 101. The Supreme Court has  
14 “long held that this provision contains an important implicit exception: Laws of nature, natural  
15 phenomena, and abstract ideas are not patentable.” *Alice Corp. Pty. v. CLS Bank Int’l*, 134 S. Ct.  
16 2347, 2354 (2014) (quoting *Ass’n for Molecular Pathology v. Myriad Genetics, Inc.*, 133 S. Ct.  
17 2107, 2116 (2013)). In applying this exception, courts “must distinguish between patents that  
18 claim the building blocks of human ingenuity and those that integrate the building blocks into  
19 something more.” *Alice*, 134 S. Ct. at 2354 (internal quotations and alterations omitted); *see also*  
20 *Mayo Collaborative Servs. v. Prometheus Labs, Inc.*, 132 S. Ct. 1289, 1301 (2012).

21 “The Supreme Court, setting up a two-stage framework, has held that a claim falls outside  
22 § 101 where (1) it is ‘directed to’ a patent-ineligible concept, *i.e.*, a law of nature, natural  
23 phenomenon, or abstract idea, and (2), if so, the particular elements of the claim, considered both  
24 individually and ‘as an ordered combination, do not add enough to transform the nature of the  
25 claim into a patent-eligible application.’” *Electric Power Group, LLC v. Alstom S.A.*, 830 F.3d  
26 1350, 1353 (Fed. Cir. 2016) (quoting *Alice* 134 S.Ct. at 2355). “The Supreme Court’s formulation  
27 makes clear that the first-stage filter is a meaningful one, sometimes ending the § 101 inquiry.”  
28 *Id.* (citing *Alice*, 134 S.Ct. at 2355.) “At the same time, the two stages are plainly related” in that

1 they “involve overlapping scrutiny of the content of the claims . . . [and] there can be close  
2 questions about when the inquiry should proceed from the first stage to the second.” *Id.* (citing  
3 *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1339 (Fed. Cir. 2016)). The burden of establishing  
4 invalidity rests on the movant. *See Microsoft Corp. v. i4i Ltd. P’ship*, 131 S. Ct. 2238, 2245  
5 (2011) (citing 35 U.S.C.A. § 282).

6 Thus, in considering whether claims are patent-ineligible, the court must first determine  
7 whether the claims are directed to a patent-ineligible concept, such as an abstract idea (the “Stage-  
8 One Inquiry”). *See Diamond v. Chakrabarty*, 447 U.S. 303, 309 (1980). “A principle, in the  
9 abstract, is a fundamental truth . . . [which] cannot be patented.” *Gottschalk v. Benson*, 409 U.S.  
10 63, 67 (1972) (internal citations and quotations omitted). “Phenomena of nature, though just  
11 discovered, mental processes, and abstract intellectual concepts are not patentable, as they are the  
12 basic tools of scientific and technological work.” *Id.* To determine whether patent claims are  
13 directed to an abstract idea, the Court must “distill[] the gist of the claim[s].”<sup>3</sup> *Open Text S.A.*,  
14 2015 WL 269036 (N.D. Cal. 2015), at \*2 (citing *Bilski v. Kappos*, 561 U.S. 593, 611-12 (2010)).  
15 A “claim directed to an abstract idea does not move into section 101 eligibility territory by ‘merely  
16 requir[ing] generic computer implementation.’” *buySAFE, Inc. v. Google, Inc.*, 765 F.3d 1350,  
17 1354 (Fed. Cir. 2014) (alteration in original) (citing *Alice*, 134 S.Ct. at 2355).

18 If claims are directed to an abstract idea, the court must then consider whether the claims  
19 contain a sufficient “inventive concept” such that “the patent in practice amounts to significantly  
20 more than a patent upon the [ineligible concept] itself” (the “Stage-Two Inquiry”). *Alice*, 134 S.  
21 Ct. at 2355 (quoting *Mayo*, 132 S. Ct. at 1294); *see also DDR Holdings, LLC v. Hotels.com, L.P.*,  
22 773 F.3d 1245, 1255 (Fed. Cir. 2014) (“Distinguishing between claims that recite a patent-eligible  
23 invention and claims that add too little to a patent-ineligible abstract concept can be difficult, as  
24 the line separating the two is not always clear.”). “For the role of a computer in a computer-  
25 implemented invention to be deemed meaningful in the context of this analysis, it must involve

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26  
27 <sup>3</sup> On the other hand, courts must be careful not to oversimplify claims because “[a]t some  
28 level, all inventions . . . embody, use, reflect, rest upon, or apply laws of nature, natural  
phenomena, or abstract ideas.” *Alice*, 134 S. Ct. at 2354; *see also Amdocs (Israel) Ltd. v. Openet  
Telecom, Inc.*, 841 F.3d 1288, 1299 (Fed. Cir. 2016).

1 more than performance of ‘well-understood, routine, [and] conventional activities previously  
2 known to the industry.’” *Content Extraction & Transmission LLC v. Wells Fargo Bank, Nat.*  
3 *Ass’n*, 776 F.3d 1343, 1347-48 (Fed. Cir. 2014) (alteration in original) (internal quotations and  
4 citations omitted). Further, claims must be “directed to a ‘specific means or method’ for  
5 improving technology” and not “simply directed to an abstract end-result.” *RecogniCorp, LLC v.*  
6 *Nintendo Co., Ltd.*, 855 F.3d 1322, 1326 (Fed. Cir. 2017). For example, “when a claim directed to  
7 an abstract idea ‘contains no restriction on how the result is accomplished . . . [and] [t]he  
8 mechanism . . . is not described, although this is stated to be the essential invention” then the claim  
9 is not patent-eligible. *Intellectual Ventures I LLC v. Symantec Corp.*, 838 F.3d 1307, 1316 (Fed.  
10 Cir. 2016) (quoting *Internet Patents Corp. v. Active Network, Inc.*, 790 F.3d 1343, 1348 (Fed. Cir.  
11 2015)).

12 **B. Motion to Dismiss**

13 Pursuant to Rule 12(b)(6), a complaint may be dismissed for failure to state a claim upon  
14 which relief may be granted. Dismissal for failure to state a claim under Federal Rule of Civil  
15 Procedure 12(b)(6) is proper if there is a “lack of a cognizable legal theory or the absence of  
16 sufficient facts alleged under a cognizable legal theory.” *Conservation Force v. Salazar*, 646 F.3d  
17 1240, 1242 (9th Cir. 2011) (citing *Balistreri v. Pacifica Police Dep’t*, 901 F.2d 696, 699 (9th Cir.  
18 1988)). The complaint must plead “enough facts to state a claim [for] relief that is plausible on its  
19 face.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). A claim is plausible on its face  
20 “when the plaintiff pleads factual content that allows the court to draw the reasonable inference  
21 that the defendant is liable for the misconduct alleged.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678  
22 (2009). If the facts alleged do not support a reasonable inference of liability, stronger than a mere  
23 possibility, the claim must be dismissed. *Id.* at 678–79. Mere “conclusory allegations of law and  
24 unwarranted inferences are insufficient to defeat a motion to dismiss.” *Adams v. Johnson*, 355  
25 F.3d 1179, 1183 (9th Cir. 2004).

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**II. DISCUSSION**

**A. The ‘449 Patent**

**1. Stage-One Inquiry: Claims Directed to an Abstract Idea?**

At the Stage-One Inquiry, the Court must determine whether the asserted claims are directed to an abstract idea. Courts deem claims directed to “analyzing information by steps people go through in their minds, or by mathematical algorithms, without more, as essentially mental processes within the abstract-idea category.” *Electric Power*, 830 F.3d at 1353 (citing *In re TLI Commc'ns LLC Patent Litig*, 823 F.3d 607, 613 (Fed. Cir. 2016); *Digitech Image Techs., LLC v. Elecs. for Imaging, Inc.*, 758 F.3d 1344, 1351 (Fed. Cir. 2014); *Bancorp Servs, L.L.C. v. Sun Life Assurance Co. of Canada (U.S.)*, 687 F.3d 1266, 1278 (Fed. Cir. 2012). The use of “existing computers as tools in aid of processes focused on ‘abstract ideas’” is not sufficient to remove a claim from the abstract-idea category. *Id.* (citing *Enfish*, 822 F.3d at 1335–36; *Alice*, 134 S.Ct. at 2358–59). For example, the Supreme Court in *Alice* found that claims directed to “facilitate the exchange of financial [information] between two parties by using a computer system as a third-party intermediary” were abstract. *Alice*, 134 S. Ct. at 2352. The *Alice* Court further held that “the prohibition against patenting abstract ideas cannot be circumvented by attempting to limit the use of [an abstract idea] to a particular technological environment.” *Id.* at 2358 (quoting *Bilski*, 561 U.S. at 610–11; see *Parker v. Flook*, 437 U.S. 584 (1978). Similarly, in *Electric Power*, the Federal Circuit “treated collecting information, including when limited to particular content (which does not change its character as information), as within the realm of abstract ideas.” *Electric Power*, 830 F.3d at 1353. The *Electric Power* Court further “recognized that merely presenting the results of abstract processes of collecting and analyzing information, without more . . . is abstract as an ancillary part of such collection and analysis.” *Id.* at 1354.

By contrast, claims which “focus[] not on asserted advances in uses to which existing computer capabilities could be put, but on a specific improvement . . . in how computers could carry out one of their basic functions” may fall outside the abstract-idea category. *Electric Power*, 830 F.3d at 1354 (citing *Enfish*, 822 F.3d at 1335–36 (the question is “whether the focus of the claims is on the specific asserted improvement in computer capabilities” or on computers which

1 “are invoked merely as a tool”)); *see also Alice*, 134 S.Ct. at 2358–59. However, the “mere  
2 automation of manual processes using generic computers does not constitute a patentable  
3 improvement in computer technology.” *Credit Acceptance Corp. v. Westlake Servs.*, 859 F.3d  
4 1044, 1055 (Fed. Cir. 2017) (citing *TLI*, 823 F.3d at 612; *OIP Techs., Inc. v. Amazon.com, Inc.*,  
5 788 F.3d 1359, 1363 (Fed. Cir. 2015)). Similarly, making a “process more efficient” in itself does  
6 not “render an abstract idea less abstract.” *Secured Mail Solutions LLC v. Universal Wilde, Inc.*,  
7 873 F.3d 905, 910 (Fed. Cir. 2017).

8 Ultimately, to be patentable, claims must “sufficiently describe how to achieve [an  
9 improvement in computer technology] in a non-abstract way.” *Two-Way Media Ltd. v. Comcast*  
10 *Cable Commc'ns, LLC*, 874 F.3d 1329, 1337 (Fed. Cir. 2017) (finding limitations requiring  
11 “sending” and “directing” of information “d[id] not sufficiently describe how to achieve these  
12 results in a non-abstract way”); *see also Affinity Labs of Tex., LLC v. DIRECTV, LLC*, 838 F.3d  
13 1253, 1258–59 (Fed. Cir. 2016) (holding that claims were directed to an abstract idea where they  
14 claimed “the function of wirelessly communicating regional broadcast content to an out-of-region  
15 recipient, not a particular way of performing that function”). For example, claims which recite  
16 “generalized steps to be performed on a computer using conventional computer activity” are  
17 deemed abstract. *See In re TLI*, 823 F.3d at 612 (citing *Enfish*, 822 F.3d at 1338).

18 With regard to the ‘449 Patent, the Court finds that the challenged claims are directed to an  
19 abstract idea and thus do not cover patentable subject matter under the Stage-One Inquiry. The  
20 claims are not directed to an improvement in “computer functionality” but merely recite  
21 “generalized steps to be performed on a computer using conventional computer activity.” *TLI*,  
22 823 F.3d at 612; *see Enfish*, 822 F.3d at 1338; *McRO, Inc. v. Bandai Namco Games Am. Inc.*, 837  
23 F.3d 1299, 1314 (Fed. Cir. 2016). In addition, the Court finds that the challenge claims are  
24 “simply directed to [the] abstract end-result” of sending, receiving, and authenticating logon  
25 information, and not to a “specific means or method for improving technology.” *RecogniCorp*,  
26 855 F.3d at 1326 (internal quotations omitted).

27 Specifically, the challenged claims do not recite a new way to authenticate online gamers  
28 through IM clients or purport to improve computer functionality through enhancements to the

1 “inter-process communication” between game clients and IM clients. Further, the challenged  
2 claims do not purport to make the user authentication process faster or more efficient or more  
3 accurate. For example, the ‘449 Patent indicates that the end result of the claimed method is no  
4 different than conventional processes in which an online gamer enters login information into an  
5 IM client and, if authenticated, is granted access to a game. (‘449 patent at 2:17-20.)  
6 Accordingly, the challenged claims merely employ “existing computers as tools in aid of  
7 processes focused on ‘abstract ideas.’” *TLI*, 823 F.3d at 613 (citing *Enfish*, 822 F.3d at 1335–36).  
8 This is not sufficient to remove the claims from the abstract-idea category. *Electric Power*, 830  
9 F.3d at 1353.

10 Plaintiff argues that the claims at issue are directed to a “specific implementation of a  
11 solution to a problem in the software arts[,]” *Enfish*, 822 F.3d at 1336, 1339, namely a solution to  
12 the problem arising from the interface mechanism between game clients and IM clients. Under  
13 conventional logon methods, direct, pre-configured communication was required between the two  
14 clients which meant that a game client could not be updated without also updating the  
15 corresponding IM client. (*See* ‘449 patent at 2:18-24.) According to plaintiff, the challenged  
16 claims are directed to improving computer technology by placing a function plug-in between two  
17 “peer entities” (*i.e.*, a game client and IM client of the same user) to improve “expansibility of the  
18 IM client.” (*Id.* at 3:30-42.)

19 Plaintiff does not persuade. Applying a plug-in specifically to “peer entities” or in the  
20 context of online gaming is not sufficient to remove the ‘449 Patent from the abstract idea  
21 category because “the prohibition against patenting abstract ideas cannot be circumvented by  
22 attempting to limit the use of [the idea] to a particular technological environment.” *Alice*, 134 S.  
23 Ct. at 2358 (quoting *Bilski*, 561 U.S. at 610–11); *see also Flook*, 437 U.S. at 584. Further, as the  
24 Federal Circuit “caution[ed]” in *DRR*, “not all claims purporting to address Internet-centric  
25 challenges are eligible for patent.” *DDR*, 773 F.3d at 1258.

26 Even if the challenged claims were directed to an improvement in computer functionality,  
27 the ‘449 Patent fails to describe the structure of the function plug-in or *how* to apply the plug-in  
28 between a game client and IM client to achieve the purported technological improvement. *See*

1 *Two-Way Media*, 874 F.3d at 1337 (finding that claims reciting the “sending” and “directing” of  
 2 information were not sufficiently descriptive). Stated differently, to be patentable, the claims must  
 3 be “directed to a ‘specific means or method’ for improving technology” and not “simply directed  
 4 to an abstract end-result.” *RecogniCorp*, 855 F.3d at 1326. Here, the challenged claims merely  
 5 recite an abstract and generic “method for obtaining logon information” through a function plug-in  
 6 by “receiving” a request for logon information from a game client, “sending” that request to an IM  
 7 client, “returning” the logon information from the IM client to the function plug-in, “receiving”  
 8 the logon information by the plug-in, and “sending” the logon information from the plug-in to the  
 9 game client. Further, the ‘449 Patent does not indicate a specific structure for the function plug-  
 10 in<sup>4</sup> but instead describes the plug-in using three lines of “pseudo-code” which indicate the end  
 11 result of using the plug-in rather than a particular means of achieving that result. (‘449 Patent,  
 12 5:1–10.) Such “result-based functional language” is deemed “abstract.” *See Two-Way Media*, 874  
 13 F.3d at 1337. Accordingly, the Court finds that the challenged claims fail to describe a specific  
 14 “means or method for improving technology” by placement of a function plug-in between two  
 15 peer entities. *See RecogniCorp*, 855 F.3d at 1326.

16 **2. Stage-Two Inquiry: Sufficient Inventive Concept?**

17 Having determined that the claims at issue in the ‘449 Patent are directed to an abstract  
 18 idea, the Stage-Two inquiry requires the Court to “determine whether the claim elements, when  
 19 viewed individually and as an ordered combination, contain an inventive concept sufficient to  
 20 transform the claimed abstract idea into a patent-eligible application.” *Smart Sys. Innovations*,  
 21 873 F.3d at 1373–74; *see also BASCOM Glob; Internet Servs., Inc. v. AT&T Mobility LLC*, 827  
 22 F.3d 1341, 1350 (Fed. Cir. 2016) (stating that the “inventive concept may arise in one or more of  
 23 the individual claim limitations or in the ordered combination of the limitations”). “A claim  
 24 contains an inventive concept if it ‘include[s] additional features’ that are more than ‘well-  
 25 understood, routine, conventional activities.’” *Id.* (quoting *Alice*, 134 S. Ct. at 2357, 2359). The

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 27 <sup>4</sup> For example, according to the patent, the function plug-in need not adhere to a specific  
 28 structure so long as it “may be configured according to function[al] requirements of a  
 corresponding game client and invoke[s] the common interface according to [the IM client’s]  
 requirements.” (‘449 Patent, 4:49–52.)

1 Federal Circuit has held that “in addressing the second step of *Alice*, [] claiming the improved  
2 speed or efficiency inherent with applying the abstract idea on a computer [does not] provide a  
3 sufficient inventive concept.” *Intellectual Ventures I LLC v. Capital One Bank (USA)*, 792 F.3d  
4 1363, 1367 (Fed. Cir. 2015). “To save a patent at step two, an inventive concept must be evident  
5 in the claims.” *Two-Way Media*, 784 F.3d at 1338 (citing *RecogniCorp*, 855 F.3d at 1327).

6 The Court finds that the ‘449 Patent does not “contain an inventive concept sufficient to  
7 transform the claimed abstract idea into a patent-eligible application.” *Smart Sys. Innovations*,  
8 873 F.3d at 1373–74. Plaintiff argues that the application of a function plug-in between peer  
9 entities is enough to “save the [‘449 Patent] at step two.” *Id.* (citing *RecogniCorp*, 855 F.3d at  
10 1327). Supercell relies primarily on *DDR* in arguing that the challenged claims recite a sufficient  
11 inventive concept, namely use of a function plug-in to solve an “Internet-centric problem” which  
12 is specific to application logon technology. *DDR*, 773 F.3d at 1258. Plaintiff highlights that the  
13 conventional method prevented developers from upgrading online games unilaterally because the  
14 communication between the game client and the IM client needed to be pre-configured. (‘449  
15 patent at 2:18-24.) Accordingly, a game client could not be upgraded without upgrading the  
16 corresponding IM client. The ‘449 Patent purports to solve this problem by applying a function  
17 plug-in between the game client and IM client.

18 Supercell does not persuade. First, the challenged claims merely describe the function  
19 plug-in as any generic software programmed to achieve a desired result, namely enabling the game  
20 client “to obtain logon information from the IM client through the function plug-in and then log on  
21 a game server.” (See ‘449 Patent at 4:44–46.) The claims do not articulate a specific means or  
22 method to achieve this result, as the function-plug is defined to cover any computer software  
23 “configured according to function[al] requirements of a corresponding game client and invoke[s]  
24 the common interface according to [the IM client’s] requirements.” (See *id.* at 4:49–52.) The  
25 ‘449 Patent recites the use of generic computer software and hardware, namely a “function plug-  
26 in,” “value-added service client,” “IM client,” and “value-added service server.” (‘449 Patent at  
27 7:13–34.) “When claims like the Asserted Claims are ‘directed to an abstract idea’ and ‘merely  
28 require[e] generic computer implementation,’ they do[] not move into section 101 eligibility

1 territory.” *Smart Sys. Innovations, LLC v. Chicago Transit Auth.*, 873 F.3d 1364, 1375 (Fed. Cir.  
2 2017) (*buySAFE*., 765 F.3d at 1354. Second, and in any event, *DDR* is distinguishable. There, the  
3 challenged claims recited an unconventional technical solution to retaining website visitors who  
4 clicked on an advertisement for a product. *See DDR*, 773 F.3d at 1257. As noted the *DDR* Court  
5 specifically “caution[ed]” that “not all claims purporting to address Internet-centric challenges are  
6 eligible for patent.” *Id.* 1258. The Court went on to hold that to be patent eligible a claim must  
7 “not attempt to preempt every application of [an] idea.” *Id.* at 1259. Here, the challenged claims  
8 recite generic language which states that communications between a game and IM client can be  
9 intermediated via a function plug-in to achieve the desired result of eliminating the need for  
10 developers to upgrade a game client and corresponding IM client simultaneously. The language of  
11 Claim 1 itself illustrates the generic nature of steps; namely that of “receiving” requests for,  
12 “obtaining”, “returning”, and “sending” user and logon information between the two clients.  
13 These steps are described using language which is so generic that it attempts “to preempt every  
14 application of [this] idea.” *Id.* Further, limiting the method to communications between two  
15 specific peer entities, namely a game client and IM client, is not sufficient to save the ‘449 Patent  
16 at Stage-Two because “the prohibition against patenting abstract ideas cannot be circumvented by  
17 attempting to limit the use of [the idea] to a particular technological environment.” *Alice*, 134 S.  
18 Ct. at 2358.

19 Next, plaintiff attempts to analogize to *Enfish* in arguing that the challenged claims are  
20 “not simply directed to *any* form” of applying a functional plug-in between two client but are  
21 instead directed to a particular way of doing so. *Enfish*, 822 F.3d at 1337 (emphasis in original).  
22 *Enfish* is distinguishable. There, the challenged claims were directed to a self-referential table  
23 which had a specified nonconventional structure. *Id.* at 1338. The table “store[d] information  
24 related to each column in rows of that same table, such that new columns can be added by creating  
25 new rows in the table,” as opposed to conventional tables, which “require[d] a programmer to  
26 predefine a structure and subsequent [data] entry [to] conform to that structure.” *Id.* at 1337–38.  
27 By contrast, Supercell’s “function plug-in” lacks a specific structure and is defined in software  
28 “pseudo-code” which describes results rather than a particular way of achieving those results.

1 (See ‘449 Patent at 5:1–10.) For example, the function plug-in as defined covers any software so  
2 long as it “may be configured according to function[al] requirements of a corresponding game  
3 client and invoke[s] the common interface according to [the IM client’s] requirements.” (‘449  
4 Patent at 4:49–52.)

5 Finally, Supercell avers that even if the “the limitations of the claims, taken individually,  
6 recite generic computer, network, and Internet components, none of which is inventive by itself,”  
7 the “ordered combination of the limitations” constitutes an inventive concept sufficient to confer  
8 patent eligibility. *BASCOM*, 827 F.3d at 1349-50. In *BASCOM*, the Federal Circuit found that the  
9 challenged claims “recite a specific, discrete implementation of the abstract idea of filtering  
10 content” which constituted an inventive concept because “the patent describes how its particular  
11 arrangement of elements is a technical improvement over prior art ways of filtering such content.”  
12 *Id.* at 1350. According to plaintiff, the ordered combination “of interactions between the game  
13 client, IM client, and plug-in is inventive.” (Dkt. No. 31, Opposition at 21.)

14 Plaintiff’s argument fails because the ‘449 Patent does not “describe[] how its particular  
15 arrangement of elements is a technical improvement over prior art ways of” applying a function  
16 plug-in between two clients *BASCOM*, 827 F.3d at 1349-50. The Court finds that the “ordered  
17 combination of the limitations” in the ‘449 Patent do not constitute an inventive concept because  
18 the ordered combination recited in the claims is logically required for the function plug-in to  
19 receive and send logon information between game and IM clients. For example, a request for user  
20 information must be “sent” by a client to an intermediary plug-in before the “request” is received  
21 by that plug-in. The request must be “received” by the plug-in before the request is then “sent” to  
22 the second client. The requested information must be “sent” by the second client back to the plug-  
23 in before it is “received” back by the intermediary plug-in. Finally, the plug-in must “receive” this  
24 logon information before sending it back to the first client. Any other ordering of claimed steps  
25 would defeat the purpose of user authentication.

26 Accordingly, the Court finds that the ‘449 Patent is not patent eligible. Therefore,  
27 defendants’ motion is **GRANTED** as to the ‘449 Patent.

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1           **B. The ‘520 Patent**

2                   **1.        Stage-One Inquiry: Claims Directed to an Abstract Idea?**

3           The Court finds that the asserted claims in the ‘520 Patent, “viewed in light of their  
4           respective specifications, are not directed to an abstract idea, and thus cover patentable subject  
5           matter.” *See Synchronoss Technologies, Inc. v. Dropbox, Inc.*, 226 F.3d 1000, 10007 (N.D. Cal.  
6           2016). The claims, “like those in *Enfish* and *McRO*, are directed on their face to an improvement  
7           to computer functionality: a more-efficient mechanism” for upgrading applications with a single  
8           installation patch which can be applied across all release channels of an application.<sup>5</sup> *Id.*

9           In *McRO*, the Federal Circuit held that a method for automating the animation of lip  
10          movement and facial expressions by replacing an animator’s subjective evaluation with automated  
11          rules was not an abstract idea. *McRO*, 837 F.3d at 1313-16. The *McRO* Court highlighted that the  
12          claims at issue recited “many exemplary rule sets that go beyond” merely identifying “differences  
13          in mouth positions for similar phonemes based on context” which characterized the subjective  
14          manual process. *Id.* at 1307. Further, the Court noted the lack of “evidence that the process  
15          previously used by animators is the same as the process required by the claims [at issue].” *Id.* at  
16          1314. For example, the conventional process was driven by subjective human determinations  
17          “rather than specific, limited mathematical rules.” *Id.* Thus, the Court found that the “computer is  
18          employed to perform a distinct process to automate a task previously performed by humans.” *Id.*

19          Similarly, the ‘520 Patent recites a method for generating a single installation patch which  
20          can be used to upgrade an application across different release channels. The ‘520 Patent purports  
21          to solve a problem rooted in computer technology, namely that when upgrading an application  
22          developers must generate a unique installation patch for each release channel which contains a  
23          Customized Information Portion specific to that release channel. Unlike the conventional method  
24          which required developers to “provide a lot of patch packages corresponding to different

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26                   <sup>5</sup> As noted, the claims in *Enfish* were directed to a self-referential table with a  
27                   nonconventional structure which “store[d] information related to each column in rows of that same  
28                   table, such that new columns can be added by creating new rows in the table,” as opposed to  
                    conventional tables, which “require[d] a programmer to predefine a structure and subsequent  
                    [data] entry [to] conform to that structure.” *Id.* at 1337–38.



1 customized information portions[,]” the present invention offers a “method and apparatus for  
2 upgrading an application, so as to avoid providing too many patch packages for the same version  
3 of an application.” (‘520 Patent at 1:59-2:2.) Stated simply, the conventional method employed  
4 human labor to generate many patch packages manually. (*Id.*) By contrast, the present invention  
5 recites an automated method for generating a single patch package which can be applied across  
6 different release channels to reduce “the workloads of the developer” and make it easier to  
7 “maintain the application.” (*Id.* at 3:5-7.)

8 As in *McRO*, defendants fail to proffer sufficient evidence that “the process previously  
9 used by [application developers] is the same as the process required by the claims.” *McRO*, 837  
10 F.3d at 1314. For example, representative claim 1 recites a specific method for creating a new  
11 installation package in which a client terminal, after receiving a patch package, creates a Data  
12 Portion for the new installation package based on the patch package and the Data Portion of the  
13 old installation package. (‘520 Patent at 9:65-10:8, Figs. 1, 2.) The Customized Information  
14 Portion of the old installation package is then added to the Data Portion of the new installation  
15 package. (*Id.* at 9:65-10:8, Figs. 1, 2.) This process enables developers to create *a single*  
16 *installation patch* capable of upgrading an application *regardless of the release channel*. (‘520  
17 patent, 2:66-3:7, 3:52-59, 8:3-11, 8:48-56.) Accordingly, the Court finds on the present record  
18 that the ‘520 Patent recites a method which employs computers to “perform a distinct process to  
19 automate a task previously performed by humans.”<sup>6</sup> *Id.*

20 Defendants attempt to characterize the ‘520 Patent as being directed to the abstract idea of  
21 “collecting, manipulating, and analyzing data.” *See Capital One Bank*, 792 F.3d at 1369. In  
22 *Capital One Bank*, the Federal Circuit found that claims directed to “customizing web page  
23 content as a function of navigation history and information known about the user” were abstract

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24 <sup>6</sup> The specifications bolster this conclusion. *See Enfish*, 822 F.3d at 1337 (“our conclusion  
25 that the claims are directed to an improvement of an existing technology is bolstered by the  
26 specification’s teachings that the claimed invention achieves other benefits over conventional  
27 databases, such as increased flexibility . . . and smaller memory requirements”). As the  
28 specifications explain, the challenged claims are directed to improving the process through which  
computers are used to upgrade applications by making that process more efficient, less labor- and  
memory-intensive, and more flexible. (*See* ‘520 Patent at 1:54-56.)

1 because the claims involved the mere “customizing [of] information based on (1) information  
2 known about the user and (2) navigation data.” *Id.* Similarly, in *Capital One Fin. Corp.*, the  
3 Court held that claims which recited a method of editing an XML document were abstract on the  
4 ground that the claims were directed to “collecting, displaying, and manipulating data” in a  
5 particular technological context. *Intellectual Ventures I LLC v. Capital One Fin. Corp.*, 850 F.3d  
6 1332, 1339–40 (Fed. Cir. 2017).

7 GREE oversimplifies the challenged claims by characterizing them broadly as the  
8 collection, manipulation, and analysis of data. Defendants ignore the fact that the ‘520 Patent  
9 recites a specific method and apparatus for upgrading an application by (i) extracting the  
10 Customized Information Portion of an old installation package and (ii) combining the Customized  
11 Information Portion of the old installation package with the Data Portion of a new installation  
12 package (iii) to generate a single installation patch which can be used to upgrade an application  
13 across all release channels.<sup>7</sup> (‘520 Patent at 9:65–10:8, Figs. 1, 2.) By following the method  
14 described in the ‘520 Patent, developers can generate a single installation patch with a Customized  
15 Information Portion which is *the same* as the old installation package for a given release channel  
16 and a Data Portion which is *different* than the old installation package. Accordingly, the Court  
17 finds that the claims “focus [] not on asserted advances in uses to which existing computer  
18 capabilities could be put, but on a specific improvement . . . in how computers could carry out one  
19 of their basic functions.” *Electric Power*, 830 F.3d at 1354 (citing *Enfish*, 822 F.3d at 1335–36).  
20 The challenges claims thus go beyond the “mere automation of manual processes using generic  
21 computers.” *Credit Acceptance*, 859 F.3d at 1055 (citing *In re TLI Commc'ns*, 823 F.3d at 612).

22 Accordingly, defendants’ motion to dismiss plaintiffs’ claims under the ‘520 Patent is  
23 **DENIED** on the ground that the claims are not directed to an abstract concept.

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27 <sup>7</sup> Thus, unlike *Symantec*, the specifications here contain sufficient restrictions on “how the  
28 result is accomplished.” *Symantec Corp.*, 838 F.3d at 1316.



1 and removed does not establish that the method and apparatus recited in the ‘520 Patent for  
2 generating and installing an installation patch across different release channels was known,  
3 conventional, and widely used. *See DDR*, 773 F.3d at 1258. Second, and similarly, the reference  
4 in the ‘895 Patent to “recogniz[ing]” a Customized Information Portion fails to show that the ‘520  
5 Patent recites only known and conventional concepts because the ‘520 Patent goes beyond the  
6 mere recognition of data. *See id.*

7         Next, defendants argue that the ‘520 Patent lacks an inventive concept because the  
8 installation patch generated through the method described in the ‘520 Patent is the same as the  
9 installation patches generated by the conventional method. According to defendants, the only  
10 difference between the convention method and the method described in the ‘520 Patent is that the  
11 challenged claims employ computers to increase the speed and efficiency of the application  
12 upgrade process. *See Capitol One Bank*, 792 F.3d at 1370. GREE asserts that “merely adding  
13 computer functionality to increase the speed or efficiency of [a] process does not confer patent  
14 eligibility on an otherwise abstract idea.” *Id.*; *see also Credit Acceptance*, 859 F.3d at 1055.  
15 (“automation of manual processes using generic computers does not constitute a patentable  
16 improvement in computer technology”); *Secured Mail*, 873 F.3d at 910 (making “a process more  
17 efficient . . . does not necessarily render an abstract idea less abstract”). However, defendants  
18 ignore the fact that the installation patch generated through the method described in the ‘520  
19 Patent is *substantively different* than the installation patches generated by the conventional  
20 method. Specifically, the challenged claims describe a method for generating a single installation  
21 patch which can be applied across all application release channels whereas the conventional  
22 method required developers to write a unique patch for each release channel. The conventional  
23 method required developers to write a unique patch for each application release channel.

24         Accordingly, defendants’ motion to dismiss plaintiffs’ claims under the ‘520 Patent is  
25 **DENIED** on the additional ground that the claims contain a sufficient inventive concept.

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**III. CONCLUSION**

For the foregoing reasons, defendants’ motion to dismiss is **GRANTED** as to the ‘449 Patent and **DENIED** as to the ‘520 Patent.

This terminates Dkt. No. 26.

**IT IS SO ORDERED.**

Dated: April 3, 2018

  
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**YVONNE GONZALEZ ROGERS**  
**UNITED STATES DISTRICT COURT JUDGE**