

1
2
3
4 UNITED STATES DISTRICT COURT
5 NORTHERN DISTRICT OF CALIFORNIA
6

7 LARRY GOLDEN,
8 Plaintiff,

9 v.

10 QUALCOMM, INC.,
11 Defendant.

Case No. [22-cv-03283-HSG](#)

**ORDER GRANTING MOTION TO
DISMISS**

Dkt. No. 6

12 **I. BACKGROUND**

13 This case is one of several Plaintiff has filed in different districts over a period of years
14 raising overlapping or materially identical claims. *See Golden v. Intel Corp.*, No. 22-cv-03828-
15 NC, 2022 WL 17735388, at *4-5 (N.D. Cal. Nov. 22, 2022), Dkt. No. 31 at 4-5, 7-8 (order
16 granting motion to dismiss without leave to amend and listing prior cases); *Golden v. Apple, Inc.*,
17 No. 22-cv-04152-VC (N.D. Cal. Oct. 20, 2022), Dkt. No. 29 (dismissing complaint without leave
18 to amend, and observing that “Golden has been pressing these frivolous claims (or some variation
19 thereof) for nearly 10 years in multiple jurisdictions”).

20 With one exception, every case of which the Court is aware in which a court has issued a
21 ruling has been dismissed as frivolous, in either this district, the District of South Carolina, or the
22 Federal Court of Claims. *Golden v. Apple Inc.*, No. 19-cv-02557-DCC, 2020 WL 415896, at *2–3
23 (D.S.C. Jan. 27, 2020), *aff’d*, 819 Fed. App’x. 930, 931 (Fed. Cir. 2020) (affirming dismissal “not
24 on the basis of duplicity, but on the ground of frivolousness”); *Golden v. Apple Inc.*, No. 20-cv-
25 02270-JD-KFM, 2021 WL 4260782, at *2–3 (D.S.C. Sept. 20, 2021), *aff’d*, No. 21-2160, 2022
26 WL 986984, at *1 (4th Cir. Mar. 31, 2022); *Golden v. Apple Inc.*, No. 20-cv-04353-JD-KFM,
27 2021 WL 5074739, at *2–3 (D.S.C. Nov. 2, 2021), *aff’d*, No. 22-1229, 2022 WL 4103285, at *2
28 (Fed. Cir. Sept. 8, 2022); *Golden v. Google, LLC*, No. 21-cv-00244-JD-KFM, 2021 WL 5083804,

1 at *3 (D.S.C. Nov. 2, 2021); *Golden v. Intel Corp.*, No. 22-03828-NC, 2022 WL 17735388, at *4–
2 5; *Golden v. Apple, Inc.*, No. 22-cv-04152-VC.

3 In particular, the Court of Claims dismissed Plaintiff’s case against the United States
4 government, in which he alleged that the government “caused cell phone manufacturers,”
5 including Qualcomm, “to produce devices that infringe on one or more of his patents.” *Golden v.*
6 *United States*, 156 Fed. Cl. 623, 625 (2021). The District of South Carolina then dismissed a
7 patent infringement lawsuit naming Qualcomm and fifteen other companies, and the Federal
8 Circuit affirmed that dismissal “on the ground of frivolousness.” *See* Dkt. No. 6-6; *Golden v.*
9 *Apple Inc.*, No. 19-cv-02557, 2020 WL 415896 at *2–3; *Golden v. Apple Inc.*, 819 Fed. Appx. at
10 931. Six months later, Plaintiff filed another suit in the District of South Carolina against
11 Qualcomm and other defendants, alleging violations of state and federal antitrust law, and that suit
12 too was dismissed based on the Magistrate Judge’s recommendation that the claims were “patently
13 frivolous.” *Golden v. Apple Inc.*, No. 20-cv-02270-BHH-KFM, 2020 WL 11624670, *4 (D.S.C.
14 Sept. 11, 2020), *report and recommendation adopted by Golden v. Apple Inc.*, No. 20-cv-02270-
15 JD-KFM, 2021 WL 4260782 (D.S.C. Sept. 20, 2021). Plaintiff filed yet another lawsuit in the
16 District of South Carolina, which was dismissed as frivolous. *Golden v. Apple Inc.*, No. 20-cv-
17 04353-JD-KFM, 2021 WL 5890508, *5 (D.S.C. Feb. 5, 2021), *report and recommendation*
18 *adopted by Golden v. Apple Inc.*, No. 20-cv-04353-JD-KFM, 2021 WL 5074739 (D.S.C. Nov. 2,
19 2021). And shortly thereafter, Plaintiff filed another lawsuit in South Carolina naming Google as
20 the sole defendant, but alleging that Google jointly infringed his patents with both Qualcomm and
21 Apple. *Golden v. Google, LLC*, No. 21-cv-00244-JD-KFM, 2021 WL 5890440, *4 (D.S.C. Apr.
22 9, 2021), *report and recommendation adopted by Golden v. Google, LLC*, No. 21-cv-00244-JDK-
23 FM, 2021 WL 5083804 (Nov. 2, 2021). This case was also dismissed with prejudice as frivolous,
24 with the Magistrate Judge specifically noting that Plaintiff could not “circumvent prior rulings by
25 this court that infringement allegations against Apple/Qualcomm are frivolous.” *Golden v.*
26 *Google, LLC*, 2021 WL 5890440 at *4 (D.S.C. Apr. 9, 2021).¹

27 ¹ The Federal Circuit affirmed the November 2, 2021 dismissal of the complaint against Apple,
28 but reversed the April 9, 2021 dismissal of the complaint against Google. *Golden v. Apple*, 2022
WL 4103285 at *2 (Fed. Cir. 2022). As to the complaint against Google, the Federal Circuit
found that the complaint included a claim chart that “attempts—whether successfully or not—to

1 The Court finds that the claims in this case are equally as frivolous as Plaintiff's many
 2 allegations against Qualcomm that preceded them. As other courts have observed, "[b]ecause
 3 Golden neither breaks his allegations down into counts, nor provides a numbering system, it is
 4 challenging to say exactly how many counts are at issue." *Golden v. Intel*, 2022 WL 17735388 at
 5 *3, n.1. The Court's challenge here is compounded because Plaintiff has attached nearly 1,200
 6 pages of documents to the complaint. The Court need not, and will not, wade through the
 7 attachments to attempt to ferret out aspects of the claims not fairly and squarely addressed in the
 8 body of the 37-page complaint: Federal Rule of Civil Procedure 8(a) requires that a complaint
 9 contain "a short and plain statement of the claim showing that the pleader is entitled to relief."
 10 Fed. R. Civ. P. 8(a)(2).

11 With these caveats, it appears Plaintiff is asserting three claims: (1) antitrust violations; (2)
 12 unjust enrichment; and (3) patent infringement. Complaint at 1 ("COMPLAINT FOR
 13 ANTITRUST LAW VIOLATIONS AND PATENT INFRINGEMENT").

14 **II. MOTION TO DISMISS**

15 **A. Plaintiff fails to plausibly plead an antitrust claim.**

16 The Complaint alleges that "[u]pon information and belief, Plaintiff believes Qualcomm
 17 has formed or created its monopoly for chipsets by 'tying' Plaintiff's CPUs to its wireless cellular
 18 modems." Compl. ¶ 52. The theory appears to be that "Qualcomm's 'hold out' strategy of 'no
 19 license, no chip' was used to force the co-conspirator OEMs to purchase Plaintiff's patented CPU
 20 that Qualcomm 'tied' to its modem." *Id.* ¶ 54. The alleged harm appears to be that "Qualcomm's
 21 anticompetitive practices has [sic] restrained Plaintiff from entering the market to collect royalties
 22 on his patented inventions." *Id.* ¶ 83. Plaintiff relies heavily throughout the complaint on the
 23 district court's findings in *FTC v. Qualcomm*, 411 F. Supp. 3d 658 (N.D. Cal. 2019), and attaches
 24 a copy of that decision to the complaint, without recognizing that the case was reversed and

25 _____
 26 map claim limitations to infringing product features, and it does so in a relatively straightforward
 27 manner." *Id.* The Federal Circuit remanded to allow the complaint to be filed and served, but
 28 noted that "[o]ur decision does not preclude subsequent motions to dismiss by the defendant for
 failure to state a claim," and it "express[ed] no opinion as to the adequacy of the complaint or
 claim chart except that it is not facially frivolous." *Id.* In the present case, as described below,
 Plaintiff's allegations fail to meet this standard, and the issue comes before the Court on a fully-
 briefed motion to dismiss.

1 vacated by the Ninth Circuit. *See id.* ¶¶ 76-78; *cf. FTC v. Qualcomm Inc.*, 969 F.3d 974, 1001-
 2 1002 (9th Cir. 2020) (finding no antitrust violation based on “no license, no chips” policy because
 3 district court “failed to identify how the policy directly impacted Qualcomm’s competitors or
 4 ‘distorted the area of effective competition,’” and policy “involve[d] potential harms to
 5 Qualcomm’s *customers*, not its competitors, and thus falls outside the relevant antitrust markets”)
 6 (citations omitted; emphasis in original).

7 Plaintiff’s antitrust claim is frivolous. At the outset, Plaintiff lacks antitrust standing. A
 8 party seeking to bring a private antitrust action must establish antitrust injury. *American Ad*
 9 *Mgmt., Inc. v. Gen. Tel. Co. of Cal.*, 190 F.3d 1051, 1054 & n.3 (9th Cir. 1999); *Cargill, Inc. v.*
 10 *Monfort of Colorado, Inc.*, 479 U.S. 104, 110 n.5 (1986) (requiring antitrust injury to seek
 11 injunctive relief under the Clayton Act). To plead antitrust injury, Plaintiff must allege that he
 12 suffered the type of injury antitrust laws were designed to prevent and that he is a participant in the
 13 same market as the alleged wrongdoers. *Golden v. Intel*, 2022 WL 17735388 at *4 (citing
 14 *American Ad Mgmt.*, 190 F.3d at 1055, 1057). Plaintiff fails to allege that he is a participant in the
 15 same market as Qualcomm or that he suffered injury in that market, and does not even allege the
 16 contours of the claimed market. To the extent the claim is that he is “restrained” from “entering
 17 the market to collect royalties on his patented inventions,” Compl. ¶ 83, that is fatally implausible:
 18 he is free to license his patents to whoever wants to license them, but this theory does not state a
 19 viable antitrust claim. To the extent Plaintiff’s actual purported injury is patent infringement, the
 20 Court addresses that claim below.

21 **B. Plaintiff fails to plausibly or adequately plead patent infringement.**

22 As in his prior cases, Plaintiff “fail[s] to include factual allegations beyond the identities of
 23 the defendant[], reference to the alleged infringing devices, and the alleged infringed-upon
 24 patents.” *Golden v. Apple*, No. 20-cv-04353-JD-KFM, 2021 WL 5074739 at *2, *aff’d as to this*
 25 *holding*, No. 22-1229, 2022 WL 4103285 (Fed. Cir. Sept. 8, 2022). The complaint lists two
 26 illustrative claims, without explaining what product made by Qualcomm supposedly infringes, or
 27 how. Compl. ¶¶ 86-88. Plaintiff references his complaint in *Golden v. United States* for the
 28 premise that Qualcomm “had an opportunity” to show that certain claims were invalid, but “failed

1 to appear.” *Id.* ¶¶ 84-85. That is irrelevant, and does nothing to adequately put Defendant on
2 notice of his theory of infringement. Nor does a claim chart regarding a GM product, *id.* ¶ 107, or
3 a multi-hundred page claim chart concerning Samsung products, Dkt. No. 1-7, adequately state a
4 claim.

5 Plaintiff also fails to adequately plead contributory or induced infringement. As for
6 contributory infringement, Plaintiff fails to plead any of the elements of that offense: (1) selling a
7 device capable of infringing the patent, which is not suitable for substantial non-infringing use; (2)
8 with knowledge that the infringing device was especially adapted for use in an infringement of
9 such patent; and (3) actual infringement by another. *Golden v. Intel*, 2022 WL 17735388 at *2.
10 For example, Plaintiff fails to plead facts plausibly supporting a claim that the Snapdragon
11 chipsets or Snapdragon ride platform do not have other noninfringing uses. *See Uniloc U.S.A.,*
12 *Inc. v. Logitech, Inc.*, No. 18-cv-01304, 2018 WL 6025597 (N.D. Cal. Nov. 17, 2018) (granting
13 motion to dismiss where plaintiff “fail[ed] to provide factual underpinnings for its allegations that
14 there are no substantial noninfringing uses of the accused devices”). Similarly, as to induced
15 infringement, Plaintiff fails to allege facts plausibly supporting an inference that Qualcomm
16 purposely induced another party to infringe any patent. *See Lifetime Indus., Inc. v. Trim-Lok, Inc.*,
17 869 F.3d 1372, 1379 (Fed. Cir. 2017) (“For an allegation of induced infringement to survive a
18 motion to dismiss, a complaint must plead facts plausibly showing that the accused infringer
19 specifically intended another party to infringe the patent and knew that the other party’s acts
20 constituted infringement.”) (citation and internal quotation marks and brackets omitted).

21 **C. Plaintiff fails to plausibly plead unjust enrichment.**

22 Because Plaintiff fails to state a claim for either direct or contributory infringement, he also
23 fails to state a claim for unjust enrichment. *See Golden v. Intel*, 2022 WL 17735388 at *3.

24 **D. The complaint is dismissed as frivolous without leave to amend.**

25 As noted above, Plaintiff’s claims have almost uniformly been dismissed in jurisdictions
26 around the nation, often without leave to amend. *See Golden v. Intel*, No. 22-cv-03828-NC, 2022
27 WL 17735388 (N.D. Cal, Nov. 22, 2022); *Golden v. Apple Inc.*, No. 19-cv-02557-DCC, 2020 WL
28 415896 (D.S.C. Jan. 27, 2020), *aff’d*, 819 Fed. App’x. 930 (Fed. Cir. 2020) (affirming dismissal

1 “not on the basis of duplicity, but on the ground of frivolousness”); *Golden v. Apple Inc.*, No. 20-
 2 cv-02270-JD-KFM, 2021 WL 4260782 (D.S.C. Sept. 20, 2021), *aff’d*, No. 21-2160, 2022 WL
 3 986984 (4th Cir. Mar. 31, 2022); *Golden v. Apple Inc.*, No. 20-cv-04353-JD-KFM, 2021 WL
 4 5074739 (D.S.C. Nov. 2, 2021), *aff’d*, No. 22-1229, 2022 WL 4103285 (Fed. Cir. Sept. 8, 2022);
 5 *Golden v. Google, LLC*, No. 21-cv-00244-JD-KFM, 2021 WL 5083804 (D.S.C. Nov. 2, 2021);
 6 *Golden v. Apple*, 22-cv-04152-VC (N.D. Cal. Oct. 20, 2022).


7 The same result is warranted here: ultimately, Plaintiff has repeatedly shown that he is not
 8 capable of pleading these sprawling and repetitive claims against Qualcomm in a manner that
 9 satisfies the basic requirements of federal pleading, such that granting leave to amend under these
 10 unusual circumstances would be futile. In particular, given what has already been pled, including
 11 the complaint’s very heavy reliance on the district court’s reversed findings in *F.T.C. v.*
 12 *Qualcomm*, no amendment of the antitrust claim at the core of the complaint could cure the
 13 fundamental problem that Plaintiff does not have antitrust standing. *See United States v.*
 14 *Corinthian Colleges*, 655 F.3d 984, 995 (9th Cir. 2011) (finding that leave to amend is only
 15 warranted “if the deficiencies can be cured with additional allegations that are consistent with the
 16 challenged pleading and that do not contradict the allegations in the original complaint”). And
 17 Plaintiff’s infringement claims against Qualcomm repeat, either directly or in substance, claims
 18 previously found more than once to be frivolous. Accordingly, this is the rare case in which
 19 dismissal without leave to amend is warranted on the first round motion to dismiss.

20 **III. CONCLUSION**

21 The motion to dismiss the complaint is **GRANTED WITHOUT LEAVE TO AMEND**.
 22 All pending motions, Dkt. Nos. 15, 22, 34, and 46, are denied as moot. The Clerk is directed to
 23 enter judgment against Plaintiff and in favor of Defendant and close the case.

24
 25 **IT IS SO ORDERED.**

26 Dated: 3/15/2023

27 
 28 HAYWOOD S. GILLIAM, JR.
 United States District Judge