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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

LOCAL INTELLIGENCE, LLC,
Plaintiff,
v.
HTC AMERICA, INC., et al.,
Defendants.

Case No. [5:17-cv-06437-EJD](#)

**ORDER DENYING MOTION TO
DISMISS**

Re: Dkt. No. 27

Plaintiff Local Intelligence, LLC (“LI”) filed the instant patent infringement suit against Defendants HTC America, Inc. and HTC Corporation (collectively, “HTC”), alleging that HTC infringed the claims of U.S. Patent Nos. 8,903,067 (the “’067 patent”), 9,219,982 (the “’982 patent”), and 9,084,084 (the “’084 patent”) (collectively, the “Asserted Patents.”). HTC now moves pursuant to Federal Rule of Civil Procedure 12(b)(6) to dismiss LI’s infringement claims on the basis that the Asserted Patents fail to claim patent-ineligible subject matter under 35 U.S.C. § 101. Pursuant to Civil Local Rule 7-1(b), the Court finds this matter suitable for decision without oral argument and VACATES the hearing set for April 12, 2018. For the reasons discussed below, the Court DENIES HTC’s motion.

I. BACKGROUND

A. The Asserted Patents

The Asserted Patents are each entitled “Apparatus and Method for Automatically Refreshing a Display of a Telephone.” The ’067 patent was filed on June 22, 2006 and issued on December 2, 2014. The ’084 and ’982 patents are continuations of the ’067 patent and share the

1 same specification. The '084 patent was filed on October 28, 2014 and issued on July 14, 2015.
2 The '982 patent was filed on June 4, 2015 and issued on December 22, 2015.

3 The Asserted Patents generally relate to “automatically refreshing a display screen of a
4 telephone.” '067 patent, col. 1 ll. 7-9. According to the Background of the Invention section,
5 telephones provide a wide variety of services, including “personal communications services” that
6 provide calling or voice messaging functionality, “information services” that provide information
7 about weather or traffic conditions, and “commercial services” that allow users to transfer funds,
8 purchase movie tickets, or order merchandise. *Id.*, col. 1 ll. 11-17. In a typical telephone, users
9 will access a particular service using a display panel and navigation keys. *Id.*, col. 1 ll. 18-19.
10 However, “[d]ue to the many available services, the user often has to navigate through many menu
11 displays in order to find a desired service.” *Id.*, col. 1 ll. 19-21.

12 The Asserted Patents purport to solve this problem by taking advantage of a specific user
13 behavioral pattern: “[u]sers often access the same services at the same time every day, or use some
14 services more routinely than others, and tend to do so at certain times of day more so than at other
15 times.” *Id.*, col. 1 ll. 22-24. For example, a user may use conferencing and collaboration services
16 when she is in the office, but traffic conditions and roadside assistance services when she is
17 driving. *See id.*, col. 4 ll. 27-35, 50-55. Accordingly, the Asserted Patents conclude, “there is a
18 need to provide a solution for a telephone to automatically display services that are likely to be
19 used at a given time and/or in a given location by a particular user.” *Id.*, col. 1 ll. 60-62.

20 The Asserted Patents accomplish this by storing mappings between specific locations or
21 times and the communication services that should be displayed. Specifically, a “datastore” stores
22 “functions,” which “represent a given set of conditions associated with a user” and correspond to a
23 particular set of communication services. *Id.*, col. 2 ll. 6-7. For example, one “function” could
24 represent the user location of “office” and correspond to the services the user uses at the office. A
25 second “function” could represent the user location of “home” and correspond to the services the
26 user uses at home. *See id.*, col. 4 ll. 27-35, 50-55. Then, in order to “automatically display
27 services that are likely to be used,” the invention looks up which “functions” (and,

1 correspondingly, communication services) correspond to the current time or location, and
2 refreshes the display with the corresponding communication services.

3 Figure 5 illustrates this solution in more detail:

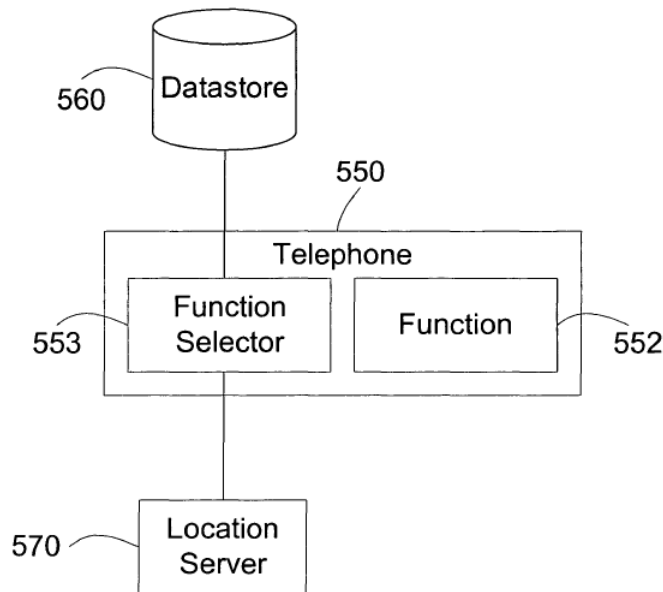


Figure 5

17 A “function selector” connects to a “location server,” which provides it with the current location
18 of the telephone. *Id.*, col. 7 ll. 7-8. The function selector determines if the current location
19 matches one or more locations for functions stored in the database, and selects the appropriate
20 function. *Id.*, col. 7 ll. 10-13.

21 According to the specification, the function selector can connect to the location server in a
22 variety of ways, including “over a network such as an IP based network, the Internet, a corporate
23 VPN, or a cellular data network;” “over a WiFi hotspot, or a short-distance wireless network, such
24 as a Bluetooth network;” or “over a global location satellite network, a cellular network, such as a
25 Global System for Mobile Communications (GSM) network, or over a programming interface.”
26 *Id.*, col. 7 ll. 49-59. In addition, the location provided by the location server can take a variety of
27 forms, including

1 the name of a location, such as but not limited to a city, a building,
2 or a neighborhood; a floor number of a building, an office number, a
3 conference room number, or a cubicle number; the name or
4 identifying information of a shopping mall, an airport, a hospital, a
5 movie theatre, a freeway exit, or a train station; geographic
6 information, such as longitude, latitude and altitude information;
7 cellular coverage information, such as an identity of a radio base
8 station; a location type, such as a vehicle, a train, a ferry, a mall, a
9 government building, or a truck of a delivery service company; or
10 the like.

11 *Id.*, col. 7 l. 60-col. 7 l. 3.

12 LI alleges that HTC infringes at least the first claim of each of the Asserted Patents. Dkt.
13 No. 1 ¶¶ 19, 27, 38. Independent claim 1 of the '067 patent is representative:

14 1. A telephone having a display panel; a datastore including at least
15 one function, wherein the at least one function comprises
16 information relating to a current location of a telephone and at least
17 one other condition associated with a user of the telephone, wherein
18 the at least one function is associated with at least one
19 communication service; circuitry operable to connect the telephone
20 to a location server to obtain a current location of the telephone; and
21 a function selector programmable to refresh a screen on the display
22 panel of the telephone to include at least one communication service
23 associated with the function, based at least in part on a current
24 location of the telephone.

25 *Id.*, col. 8 ll. 9-20.

26 **B. Procedural History**

27 LI initiated the instant suit on November 3, 2017. Dkt. No. 1. HTC responded by filing
28 the instant motion on January 29, 2018. Dkt. No. 27.

29 **II. LEGAL STANDARDS**

30 **A. Motion to Dismiss Under Federal Rule of Civil Procedure 12(b)(6)**

31 Federal Rule of Civil Procedure 8(a) requires a plaintiff to plead each claim with sufficient
32 specificity to “give the defendant fair notice of what the . . . claim is and the grounds upon which
33 it rests.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555, 127 S. Ct. 1955, 167 L. Ed. 2d 929
34 (2007) (internal quotations omitted). The factual allegations in the complaint “must be enough to
35 raise a right to relief above the speculative level” such that the claim “is plausible on its face.” *Id.*
36 at 556-57, 127 S. Ct. 1955. A complaint that falls short of the Rule 8(a) standard may be
37 dismissed if it fails to state a claim upon which relief can be granted. Fed. R. Civ. P. 12(b)(6).

1 “Dismissal under Rule 12(b)(6) is appropriate only where the complaint lacks a cognizable legal
2 theory or sufficient facts to support a cognizable legal theory.” *Mendiondo v. Centinela Hosp.
3 Med. Ctr.*, 521 F.3d 1097, 1104 (9th Cir. 2008).

4 When deciding whether to grant a motion to dismiss, the court must generally accept as
5 true all “well-pleaded factual allegations.” *Ashcroft v. Iqbal*, 556 U.S. 662, 664, 129 S. Ct. 1937,
6 173 L.Ed.2d 868 (2009). The court must also construe the alleged facts in the light most favorable
7 to the plaintiff. *See Retail Prop. Trust v. United Bhd. of Carpenters & Joiners of Am.*, 768 F.3d
8 938, 945 (9th Cir. 2014) (providing the court must “draw all reasonable inferences in favor of the
9 nonmoving party” for a Rule 12(b)(6) motion). However, “courts are not bound to accept as true a
10 legal conclusion couched as a factual allegation.” *Iqbal*, 556 U.S. at 678, 129 S. Ct. 1937.

11 Also, the court usually does not consider any material beyond the pleadings for a Rule
12 12(b)(6) analysis. *Hal Roach Studios, Inc. v. Richard Feiner & Co.*, 896 F.2d 1542, 1555 n.19
13 (9th Cir. 1989). Exceptions to this rule include material submitted as part of the complaint or
14 relied upon in the complaint, and material subject to judicial notice. *See Lee v. City of Los
15 Angeles*, 250 F.3d 668, 688-69 (9th Cir. 2001).

16 **B. Patent Eligibility at the Motion to Dismiss Stage**

17 The ultimate question whether a claim recites patent-eligible subject matter under § 101 is
18 a question of law. *Intellectual Ventures I LLC v. Capital One Fin. Corp.*, 850 F.3d 1332, 1338
19 (Fed. Cir. 2017) (“Patent eligibility under § 101 is an issue of law[.]”). However, the Federal
20 Circuit has identified that there are certain factual questions underlying the § 101 analysis. *See
21 Berkheimer v. HP Inc.*, 881 F.3d 1360, 1368-69 (Fed. Cir. 2018).

22 A district court may decide patent eligibility at the Rule 12(b)(6) stage. *See, e.g., Genetic
23 Techs. Ltd. v. Merial L.L.C.*, 818 F.3d 1369, 1373 (Fed. Cir. 2016). However, a district court may
24 only conclude that a patent fails to claim patent-eligible subject matter “when there are no factual
25 allegations that, taken as true, prevent resolving the eligibility question as a matter of law.” *Aatrix
26 Software, Inc. v. Green Shades Software, Inc.*, 882 F.3d 1121, 1125 (Fed. Cir. 2018). “If there are
27 claim construction disputes at the Rule 12(b)(6) stage, [the Federal Circuit has] held that either the

1 court must proceed by adopting the non-moving party's constructions, . . . or the court must
2 resolve the disputes to whatever extent is needed to conduct the § 101 analysis, which may well be
3 less than a full, formal claim construction.” *Id.* (internal citations omitted).

4 **C. Patent Eligibility Under § 101**

5 **i. The Mayo/Alice Framework**

6 35 U.S.C. § 101 provides that “[w]hoever invents or discovers any new and useful process,
7 machine, or composition of matter, or any new and useful improvement thereof, may obtain a
8 patent therefor, subject to the conditions and requirements of this title.” However, the Supreme
9 Court has recognized that these broad categories contain an implicit exception: “[l]aws of nature,
10 natural phenomena, and abstract ideas are not patentable.” *Ass’n for Molecular Pathology v.*
11 *Myriad Genetics, Inc.*, — U.S. —, 133 S. Ct. 2107, 2116, 186 L. Ed. 2d 124 (2013) (internal
12 quotation marks and citation omitted).

13 To determine whether a claim falls within the “abstract idea” exception, the Supreme Court
14 has established a two-step framework: First, the court must “determine whether the claims at
15 issue are directed to a patent-ineligible concept.” *Alice Corp. Pty. Ltd. v. CLS Bank Int’l*, — U.S.
16 —, 134 S. Ct. 2347, 2355, 189 L. Ed. 2d 296 (2014). Second, if the claims are directed to
17 patent-ineligible subject matter, the Court must “consider the elements of each claim both
18 individually and ‘as an ordered combination’ to determine whether the additional elements
19 ‘transform the nature of the claim’ into a patent-eligible application.” *Id.* (quoting *Mayo*
20 *Collaborative Servs. v. Prometheus Laboratories, Inc.*, 566 U.S. 66, 132 S. Ct. 1289, 1298, 1297,
21 182 L. Ed. 2d 321 (2012)). The Supreme Court has described this as a “search for an ‘inventive
22 concept’—i.e., an element or combination of elements that is ‘sufficient to ensure that the patent in
23 practice amounts to significantly more than a patent upon the [ineligible concept] itself.’” *Id.*

24 **ii. Step One**

25 In evaluating step one, “the ‘directed to’ inquiry applies a stage-one filter to claims,
26 considered in light of the specification, based on whether ‘their character as a whole is directed to
27 excluded subject matter.’” *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1335 (Fed. Cir. 2016)

1 (quoting *Internet Patents Corp. v. Active Network, Inc.*, 790 F.3d 1343, 1346 (Fed. Cir. 2015)).
 2 The Federal Circuit has also described this inquiry as an evaluation of the “focus” or “basic thrust”
 3 of the claims. *See Enfish*, 822 F.3d at 1335-36; *BASCOM Glob. Internet Servs., Inc. v. AT&T*
 4 *Mobility LLC*, 827 F.3d 1341, 1348 (Fed. Cir. 2016). The Federal Circuit has recognized that this
 5 process sometimes involves “close calls about how to characterize what the claims are directed
 6 to.” *BASCOM*, 827 F.3d at 1349. Courts must tow the fine line between assessing a claim’s
 7 “character as a whole” and “describing the claims at such a high level of abstraction and
 8 untethered from the language of the claims [such that it] all but ensures that the exceptions to §
 9 101 swallow the rule.” *Enfish*, 822 F.3d at 1335, 1337.

10 Using these principles, the Federal Circuit has found that software claims are not directed
 11 to an abstract idea on a number of occasions. For example, it has found that claims which
 12 “purport to improve the functioning of the computer itself”—as opposed to those where
 13 “computers are invoked merely as a tool” to carry out an abstract process—are not directed to
 14 abstract ideas. *See, e.g., Core Wireless Licensing S.A.R.L. v. LG Elecs., Inc.*, 880 F.3d 1356, 1363
 15 (Fed. Cir. 2018) (claims relating to “an improved user interface for electronic devices, particularly
 16 those with small screens” were not abstract); *Finjan, Inc. v. Blue Coat Systems, Inc.*, 879 F.3d
 17 1299, 1305 (Fed. Cir. 2018) (claims directed to “behavior-based virus scanning” were not
 18 abstract); *Visual Memory LLC v. NVIDIA Corp.*, 867 F.3d 1253, 1259-60 (Fed. Cir. 2017) (claims
 19 directed to an improved memory system which “focus[ed] on . . . the use of programmable
 20 operational characteristics that are configurable based on the type of processor” were not abstract);
 21 *Enfish*, 822 F.3d at 1336 (claims directed to a specific type of self-referential table for a computer
 22 database were not abstract). Relatedly, it has found that claims directed to a “new and useful
 23 technique” for performing a particular task were not abstract. *See, e.g., Thales Visionix Inc. v.*
 24 *United States*, 850 F.3d 1343, 1349 (Fed. Cir. 2017) (“claims directed to a new and useful
 25 technique for using sensors to more efficiently track an object on a moving platform” were not
 26 abstract); *Rapid Litig. Mgmt. Ltd. v. CellzDirect, Inc.*, 827 F.3d 1042, 1048, 1050 (Fed. Cir. 2016)
 27 (claims directed to “a new and useful laboratory technique for preserving hepatocytes,” a type of

1 liver cell, were not abstract); *McRO, Inc. v. Bandai Namco Games Am. Inc.*, 837 F.3d 1299, 1314
 2 (Fed. Cir. 2016) (patents that automated part of a preexisting method for 3-D facial expression
 3 animation were not abstract because they “focused on a specific asserted improvement in
 4 computer animation, i.e., the automatic use of rules of a particular type.”).

5 However, not all claims relating to computer technologies are not abstract. Where the
 6 focus of the claims is on “certain independently abstract ideas that use computers as tools” instead
 7 of “an improvement in computers as tools,” claims may fail step one. *See, e.g., Affinity Labs of*
 8 *Texas, LLC v. DIRECTV, LLC*, 838 F.3d 1253, 1262 (Fed. Cir. 2016) (claims relating to
 9 “deliver[ing] content to a handheld wireless electronic device” were directed to an abstract idea
 10 because they claimed “the general concept of out-of-region delivery of broadcast content through
 11 the use of conventional devices, without offering any technological means of effecting that
 12 concept”); *Synopsys, Inc. v. Mentor Graphics Corp.*, 839 F.3d 1138, 1140, 1149 (Fed. Cir. 2016)
 13 (claims related to logic circuit design in computer hardware were “drawn to the abstract idea of:
 14 translating a functional description of a logic circuit into a hardware component description of the
 15 logic circuit” because “they are so broad as to read on an individual performing the claimed steps
 16 mentally or with pencil and paper”); *Tranxition, Inc. v. Lenovo (United States) Inc.*, 664 Fed.
 17 Appx. 968, 971-72 (Fed. Cir. 2016) (claims relating to migration of computer settings were
 18 directed to an abstract idea because “manual migration is an abstract idea” and the claims merely
 19 “automate[d] the migration of data between two computers”). Restricting older, abstract ideas to
 20 certain technological environments also does not make them not abstract. *See, e.g., FairWarning*
 21 *IP, LLC v. Iatric Sys., Inc.*, 839 F.3d 1089, 1094 (Fed. Cir. 2016) (observing that ineligible claims
 22 “merely implement an old practice in a new environment”).

23 In applying these concepts, the Federal Circuit has cautioned that “the first step of the
 24 [Alice] inquiry is a meaningful one, i.e., . . . a substantial class of claims are not directed to a
 25 patent-ineligible concept.” *Enfish*, 822 F.3d at 1335.

26 **iii. Step Two**

27 In assessing step two, courts must “consider the elements of each claim both individually

1 and ‘as an ordered combination’” and assess whether there are any “additional features” in the
2 claims that constitute an “inventive concept.” *Alice*, 134 S. Ct. at 2357. This inventive concept
3 “must be significantly more than the abstract idea itself,” *BASCOM*, 827 F.3d at 1349, “must be
4 more than well-understood, routine, conventional activity,” *DIRECTV*, 838 F.3d at 1262, “and
5 cannot simply be an instruction to implement or apply the abstract idea on a computer.”
6 *BASCOM*, 827 F.3d at 1349. For example, it may be found in an “inventive set of components or
7 methods,” “inventive programming,” or an inventive approach in “how the desired result is
8 achieved.” *Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1355 (Fed. Cir. 2016).
9 “Inventive concept” does not mean “novelty;” “[t]he mere fact that something is disclosed in a
10 piece of prior art, for example, does not mean it was well-understood, routine, and conventional.”
11 *Berkheimer v. HP Inc.*, 881 F.3d 1360, 1369 (Fed. Cir. 2018).

12 The Federal Circuit has found an inventive concept in several cases. For example, in *DDR*
13 *Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245, 1248, 1259 (Fed. Cir. 2014), the Federal
14 Circuit found that claims that addressed the “Internet-centric problem” of third-party merchant
15 advertisements that would “lure . . . visitor traffic away” from a host website (because clicking on
16 the advertisement would redirect the visitor to the merchant’s website) amounted to an inventive
17 concept. This was so, the Federal Circuit reasoned, because the claims “specify how interactions
18 with the Internet are manipulated to yield a desired result” such that the interactions are “not
19 merely the routine or conventional use of the Internet.” *Id.* at 1259. As another example, in
20 *BASCOM*, 827 F.3d at 1350, the Federal Circuit found that the claims directed to Internet content
21 filtering recited the inventive concept of “install[ing] a filtering tool at a specific location, remote
22 from the end-users, with customizable filtering features specific to each end user.” The court
23 reasoned that “an inventive concept can be found in the non-conventional and non-generic
24 arrangement of known, conventional pieces.” *Id.* The court found this to be the case there
25 because the patents claimed a specific type of content filtering that took advantage of an ISP
26 server’s ability to associate internet requests with user accounts. *Id.*

27 Nevertheless, not all technological aspects of how a patented invention is implemented

1 supply a basis for finding an “inventive concept.” A claim that simply takes an abstract idea and
 2 adds “the requirement to perform it on the Internet, or to perform it on a set of generic computer
 3 components . . . would not contain an inventive concept.” *BASCOM*, 827 F.3d at 1350. *See, e.g.*,
 4 *Content Extraction & Transmission LLC v. Wells Fargo Bank, Nat. Ass’n*, 776 F.3d 1343, 1348
 5 (Fed. Cir. 2014), cert. denied, — U.S. —, 136 S. Ct. 119, 193 L. Ed. 2d 208 (2015) (no
 6 inventive concept because the claims simply recited “generic scanner and computer to perform
 7 well-understood, routine, and conventional activities commonly used in industry”); *DIRECTV*,
 8 838 F.3d at 1262 (no inventive concept because “[t]he claim simply recites the use of generic
 9 features of cellular telephones . . . as well as routine functions . . . to implement the underlying
 10 idea”). Limiting the field of use to a particular technological environment also does not supply an
 11 inventive concept. *Alice*, 134 S.Ct. at 2358 (noting that, under step two, “limiting the use of an
 12 abstract idea ‘to a particular technological environment’ ” “is not enough for patent eligibility”).
 13 *See, e.g., buySAFE, Inc. v. Google, Inc.*, 765 F.3d 1350, 1355 (Fed. Cir. 2014) (abstract claims
 14 relating to transaction guarantees could not be saved from ineligibility because they were
 15 restricted to online transactions, as “[a]t best, that narrowing is an ‘attempt[] to limit the use’ of
 16 the abstract guarantee idea ‘to a particular technological environment,’ which has long been held
 17 insufficient to save a claim in this context”).

18 Finally, as the Federal Circuit recently held, “[w]hether something is well-understood,
 19 routine, and conventional to a skilled artisan at the time of the patent is a factual determination.”
 20 *Berkheimer*, 881 F.3d at 1369. As such, it is improper to decide at the pleadings or summary
 21 judgment stage that claims lack an inventive concept where factual disputes remain as to whether
 22 particular elements are “well-understood, routine, [and/or] conventional.” *See, e.g., Aatrix*
 23 *Software*, 882 F.3d at 1129 (vacating dismissal pursuant to Rule 12(b)(6) where there were factual
 24 allegations suggesting that the claimed “data file” could be “an improvement in the importation of
 25 data from third-party software applications”); *Berkheimer*, 881 F.3d at 1370 (vacating grant of
 26 summary judgment where there was at least a factual dispute “regarding whether [certain claims]
 27 archive documents in an inventive manner that improves these aspects of the disclosed archival

1 system”).

2 Accordingly, the search for an inventive concept remains one that court must approach
3 cautiously, “scrutiniz[ing] the claim elements more microscopically” than in step one. *Elec.*
4 *Power Grp.*, 830 F.3d at 1354.

5 **iv. Preemption**

6 In addition to these principles, several other considerations may be helpful in conducting a
7 § 101 analysis: First, the Supreme Court has recognized that the “concern that undergirds [the]
8 § 101 jurisprudence” is preemption. *Alice*, 134 S. Ct. at 2358. If a claim is so abstract so as to
9 “pre-empt use of [the claimed] approach in all fields, and would effectively grant a monopoly over
10 an abstract idea” is not patent-eligible. *Bilski v. Kappos*, 561 U.S. 593, 612, 130 S. Ct. 3218,
11 3231, 177 L. Ed. 2d 792 (2010). However, the inverse is not true: “[w]hile preemption may signal
12 patent ineligible subject matter, the absence of complete preemption does not demonstrate patent
13 eligibility.” *FairWarning IP*, 839 F.3d at 1098 (internal quotation marks and citation omitted).

14 Second (and relatedly), “claims that are ‘so result-focused, so functional, as to effectively
15 cover any solution to an identified problem’ are frequently held ineligible under section 101.”
16 *DIRECTV*, 838 F.3d at 1265. For example, in *Elec. Power Grp.*, 830 F.3d at 1356, the Federal
17 Circuit found that claims directed to “any way of effectively monitoring multiple sources on a
18 power grid” instead of “some specific way of enabling a computer to monitor data from multiple
19 sources across an electric power grid” did not contain an inventive concept. The Federal Circuit
20 has noted that this framework “is one helpful way of double-checking the application of the
21 Supreme Court's framework to particular claims—specifically, when determining whether the
22 claims meet the requirement of an inventive concept in application.” *Id.*

23 **III. DISCUSSION**

24 With these principles in mind, the Court turns to the claims at issue. In its motion, HTC
25 contends that the Asserted Patents contain only minimal differences in their claims which do not
26 impact the § 101 analysis. Mot. 6-7. LI does not appear to disagree, as it only addresses the
27 claims collectively in its opposition. *See* Opp’n 15-21. On its own review, the Court agrees with

1 HTC that the Asserted Claims are substantially similar. Accordingly, it will analyze the Asserted
2 Claims collectively, using claim 1 of the '067 patent as the representative claim.

3 **A. Step One**

4 At step one of the *Alice* analysis, the Court assesses the “character as a whole” of the
5 claims to determine “whether the claims at issue are directed to [an abstract idea].” *Alice*, 134 S.
6 Ct. at 2355; *Enfish*, 822 F.3d at 1335 (citation omitted).

7 HTC argues that the claims of the Asserted Patents are directed to the abstract idea of
8 “providing communication information based on location and other user information.” Mot. 5-9.
9 HTC contends that this is no less abstract than “tailoring content based on the viewers location or
10 address,” which the Federal Circuit deemed abstract in *Intellectual Ventures*, 792 F.3d at 1369-70.
11 HTC also argues that the claims of the Asserted Patents are not directed to a solution of a
12 technological problem because tailoring information is a fundamental process that precedes the
13 computer era, and the claims are not sufficiently specific to recite a specific solution. Mot. 9-12.

14 LI counters that the claims of the Asserted Patents are not directed to an abstract idea, but
15 instead to “specific systems and methods that use a location server associated with a system such
16 as a WiFi network (and not a positioning system like GPS) to obtain a phone’s current location,
17 and a phone’s ‘datastore’ or memory (as opposed to a carrier’s records), in order to provide and
18 refresh location-relevant communication services on a phone’s display as the phone’s current
19 location changes.” Opp’n 3. As such, LI argues, the claims of the Asserted Patents pertain to a
20 specific solution to technical problems which arise in the realm of using location-based technology
21 in conjunction with displaying particular communication services on a phone. *Id.* 15-17.

22 The “character as a whole” of the claims of the Asserted Patents lies somewhere in
23 between the parties’ characterizations. The Court agrees with HTC that the claimed invention
24 seeks to “provid[e] communication information based on location and other user information.”
25 However, the solution is more specific than this. For example, the current location is obtained
26 from a “location server” by a “function selector.” ’067 patent, col. 8 ll. 13-15. In addition, the
27 selecting is done using “functions” which are stored in the “datastore.” *Id.*, col. 8 ll. 9-10, 16-20.

1 However, at the same time, the claims also are not as specific as LI contends: nothing in the claims
2 or specification requires that the “datastore” be local to the phone. *See id.*, col. 8 ll. 42 (“function
3 selector . . . connects to datastore”) (emphasis added). In addition, nothing confines the “location
4 server” connection to WiFi. *See id.*, col. 8 ll. 49-59 (describing a wide variety of options for
5 connecting to the “location server,” including a cellular data network, Bluetooth, and a “global
6 location satellite network”). Putting all these observations together, the Court concludes that the
7 claims of the Asserted Patents are best characterized as directed to: refreshing location-relevant
8 communication services on a phone’s display by obtaining a current location from a location
9 server, selecting communication services using logic in a datastore, and refreshing the display.

10 The question then becomes whether this is an abstract idea. The Federal Circuit’s recent
11 decision in *Core Wireless*, 880 F.3d at 1363 ends this inquiry. In *Core Wireless*, the Federal
12 Circuit evaluated claims for “improved display interfaces, particularly for electronic devices with
13 small screens like mobile telephones.” *Id.* at 1359. This display involved the use of an
14 “application summary” which display[ed] “a limited list of common functions and commonly
15 accessed stored data which itself can be reached directly from the main menu listing some or all
16 applications.” *Id.* In evaluating patent eligibility, the Federal Circuit observed that the claim
17 limitations “disclose a specific manner of displaying a limited set of information to the user, rather
18 than using conventional user interface methods to display a generic index on a computer.” *Id.* at
19 1363. The Court observed that this provided “an improved user interface for electronic devices,
20 particularly those with small screens” where display real estate was at a premium. *Id.* Because of
21 this, they were “directed to an improved user interface for computing devices, not to the abstract
22 idea of an index.” *Id.* at 1362.

23 It is hard to distinguish this case from *Core Wireless*. Both relate to the computer
24 technology of user interfaces. *See* ’067 patent, col. 1 ll. 7-9. Both purport to solve the same
25 problem within the realm of user interfaces: limited display space on electronic devices with small
26 screens. *See id.*, col. 1 ll. 19-21 (“Due to the many available services, the user often has to
27 navigate through many menu displays in order to find a desired service.”). And both claim a

1 specific manner of solving this problem. In *Core Wireless*, 880 F.3d at 1362-63, the claims
 2 “specif[ied] a particular manner by which the summary window must be accessed,” “require[d] the
 3 application summary window list a limited set of data,” and “restrain[ed] the type of data that can
 4 be displayed in the summary window.” Here, the claims recite a specific manner of limiting the
 5 information which should be displayed: the “communication services” must be selected according
 6 to one or more “function[s]” that are stored in a “datastore,” which are in turn identified using the
 7 phone’s “current location” which must be obtained by “connect[ing] the telephone to a location
 8 server.” *See id.*, col. 8 ll. 9-20. As such, the claims at issue do more than simply state a result
 9 (i.e., display communication services according to current location); they also recite the way in
 10 which it is accomplished (i.e., using location retrieved from the location server and functions
 11 stored in the datastore). Accordingly, because the specific improvement to the technology of user
 12 interfaces claimed in *Core Wireless* was not an abstract idea, the Court must conclude that the
 13 similarly specific improvement to user interfaces claimed here is also not an abstract idea.

14 In reaching this conclusion, the Court is mindful that the reasoning of *Core Wireless* may
 15 rest on narrow ground. Other Federal Circuit cases confirm that not every purported technological
 16 improvement is patent eligible. *See, e.g., DIRECTV*, 838 F.3d at 1262 (claims relating to
 17 “deliver[ing] content to a handheld wireless electronic device” were directed to an abstract idea);
 18 *Synopsys*, 839 F.3d at 1140, 1149 (claims related to logic circuit design in computer hardware
 19 were “drawn to the abstract idea of: translating a functional description of a logic circuit into a
 20 hardware component description of the logic circuit”). Nevertheless, *Core Wireless* at the very
 21 least requires that a specific solution, reciting specific implementation detail, which purports to
 22 solve a problem within the technology of user interfaces in electronic devices with small screens,
 23 is not abstract. On this point, the claims of the Asserted Patents cannot be distinguished. Thus,
 24 the Court concludes that they are not directed to an abstract idea.

25 HTC’s arguments to the contrary are not persuasive. First, HTC argues that this case is
 26 distinguishable from *Core Wireless* because, unlike the patents at issue in *Core Wireless*, the
 27 Asserted Patents do not identify a technological problem to be solved. Mot. 9-10. The Court

1 disagrees; as discussed above, the Asserted Patents seek to solve the same technological problem
2 as the *Core Wireless* patents: limited display space on electronic devices with small screens. '067
3 patent, col. 1 ll. 19-21. Second, HTC argues that this case is distinguishable from *Core Wireless*
4 because the claims at issue here are not as specific as those at issue in *Core Wireless*. Mot. 11-12.
5 The Court disagrees on this point as well. The claims in *Core Wireless* and the claims at issue
6 here accomplish specificity in different ways, but they both do so to substantially the same degree.
7 In *Core Wireless*, the claims at issue recited specific graphical characteristics of the improved user
8 interface (e.g., an “application summary window” which must be “reached directly” from the main
9 menu, which contains “data” which is “selectable to launch the respective application”). *Core*
10 *Wireless*, 880 F.3d at 1362-63. Here, the claims at issue recite specific implementation
11 characteristics as to how the information to be displayed is limited for the small screen (e.g., using
12 a “location server” to supply the current location and using “functions” stored in a “datastore” to
13 determine which communication services should be selected). *See, e.g.*, '067 patent, col. 8 ll. 9-
14 20. As such, the claims of the Asserted Patents recite the solution with a similar level of
15 specificity to the *Core Wireless* claims and cannot be distinguished on this basis.

16 Accordingly, the Court concludes at step one of the *Alice* framework that the claims of the
17 Asserted Patents are not directed to an abstract idea.

18 **B. Step Two**

19 The Court need not reach step two. *Thales*, 850 F.3d at 1349 (“Because we find the claims
20 are not directed to an abstract idea, we need not proceed to step two.”); *Enfish*, 822 F.3d at 1339
21 (“[W]e think it is clear for the reasons stated that the claims are not directed to an abstract idea,
22 and so we stop at step one.”).

23 **IV. CONCLUSION**

24 Because the claims of the Asserted Patents are not directed to an abstract idea, HTC’s
25 motion to dismiss is DENIED.

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IT IS SO ORDERED.

Dated: April 6, 2018



EDWARD J. DAVILA
United States District Judge