

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

COMPETTIVE ACCESS SYSTEMS,
INC.,

Plaintiff,

V.

ORACLE CORPORATION and
ORACLE AMERICA, INC.,

Defendants.

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1:23-CV-286-DII

ORDER

Before the Court is Defendants Oracle Corporation and Oracle America, Inc.’s (collectively, “Oracle”) Motion to Dismiss Pursuant to Federal Rule of Civil Procedure 12(b)(6), (Dkt. 19), and all responsive briefing (Dkts. 28, 30, 37). Having considered the briefing, record, and applicable law, the Court will deny Oracle’s motion to dismiss.

I. BACKGROUND

Plaintiff Competitive Access Systems, Inc. (“CAS”) sues Oracle for patent infringement. (Compl., Dkt. 1). CAS owns U.S. Patent No. 8,228,801, entitled “Broadband Communications Device” (“the ’801 Patent”), U.S. Patent No. 9,350,649, entitled “Multipath Communication Devices and Methods” (“the ’649 patent”), and U.S. Patent No. 10,868,908, entitled “Devices and Methods for Multipath Communications” (“the ’908 Patent”) (collectively, the “Patents”). (*Id.* at 1). CAS alleges that Oracle infringes the Patents through the sale and servicing of Oracle MPTCP Products and Oracle SD-WAN Products (collectively, the “Accused Products”). (*Id.*). The case was transferred to this court from the Marshall Division of the United States District Court for the Eastern District of Texas on March 16, 2023. (Dkt. 50).

Oracles moves to dismiss two aspects of CAS’s complaint. (Mot. Dismiss, Dkt. 19). First, Oracle argues that Claims 1 and 7 of the ’649 Patent fail to recite patent-eligible subject matter under 35 U.S.C. § 101. (*Id.* at 1). Second, Oracle argues that CAS fails to plausibly allege infringement of the ’908 Patent. (*Id.* at 14).

II. LEGAL STANDARD

Under Rule 12(b)(6), a court may dismiss a complaint for “failure to state a claim upon which relief can be granted.” Fed. R. Civ. P. 12(b)(6). In deciding a 12(b)(6) motion, a “court accepts ‘all well-pleaded facts as true, viewing them in the light most favorable to the plaintiff.’” *In re Katrina Canal Breaches Litig.*, 495 F.3d 191, 205 (5th Cir. 2007) (quoting *Martin K. Eby Constr. Co. v. Dall. Area Rapid Transit*, 369 F.3d 464, 467 (5th Cir. 2004)). “To survive a Rule 12(b)(6) motion to dismiss, a complaint ‘does not need detailed factual allegations,’ but must provide the plaintiff’s grounds for entitlement to relief—including factual allegations that when assumed to be true ‘raise a right to relief above the speculative level.’” *Cuwillier v. Taylor*, 503 F.3d 397, 401 (5th Cir. 2007) (citing *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007)). That is, “a complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Twombly*, 550 U.S. at 570).

A claim has facial plausibility “when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Id.* “The tenet that a court must accept as true all of the allegations contained in a complaint is inapplicable to legal conclusions. Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice.” *Id.* A court ruling on a 12(b)(6) motion may rely on the complaint, its proper attachments, “documents incorporated into the complaint by reference, and matters of which a court may take judicial notice.” *Dorsey v. Portfolio Equities, Inc.*, 540 F.3d 333, 338 (5th Cir. 2008) (citations and internal quotation marks omitted). A court may also consider

documents that a defendant attaches to a motion to dismiss “if they are referred to in the plaintiff’s complaint and are central to her claim.” *Causey v. Sewell Cadillac-Chevrolet, Inc.*, 394 F.3d 285, 288 (5th Cir. 2004). But because the court reviews only the well-pleaded facts in the complaint, it may not consider new factual allegations made outside the complaint. *Dorsey*, 540 F.3d at 338. “[A] motion to dismiss under 12(b)(6) ‘is viewed with disfavor and is rarely granted.’” *Turner v. Pleasant*, 663 F.3d 770, 775 (5th Cir. 2011) (quoting *Harrington v. State Farm Fire & Cas. Co.*, 563 F.3d 141, 147 (5th Cir. 2009)). In patent cases, “[i]t is enough that a complaint place the alleged infringer ‘on notice of what activity . . . is being accused of infringement.’” *Bot M8 LLC v. Sony Corp. of Am.*, 4 F.4th 1342, 1352 (Fed. Cir. 2021) (quoting *Lifetime Indus., Inc. v. Trim-Lok, Inc.*, 869 F.3d 1372, 1379 (Fed. Cir. 2017)).

III. DISCUSSION

Oracle moves to dismiss certain claims in CAS’s complaint. (Mot. Dismiss, Dkt. 19). The Court will begin with Oracle’s patent-eligibility arguments for the ’649 Patent and will then turn to Oracle’s pleading-deficiency arguments for the ’908 Patent.

A. Oracle does not meet its burden to establish that Claims 1 and 7 of the ’649 Patent are ineligible under 35 U.S.C. § 101.

First, Oracle argues that Claims 1 and 7 of the ’649 Patent (“Asserted Claims”) fail to recite patent-eligible subject matter under 35 U.S.C. § 101 (“Section 101”). (Mot. Dismiss, Dkt. 19, at 1). Oracle contends that the Asserted Claims are directed to the abstract idea of “sending data to devices over a network using information or parameters.” (*Id.*). CAS responds that the Asserted Claims are eligible under Section 101 because they are directed to a specific technological solution to a technological problem, not to an abstract idea. (Resp., Dkt. 28, at 5).

The Patent Act defines patent-eligible subject matter as “any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof.” 35 U.S.C. § 101. The Supreme Court has held that Section 101 “contains an important implicit exception: Laws of nature, natural phenomena, and abstract ideas are not patentable.” *Alice Corp. Pty.*

v. CLS Bank Int'l, 573 U.S. 208, 216 (2014) (quoting *Ass'n for Molecular Pathology v. Myriad Genetics, Inc.*, 569 U.S. 576, 582 (2013)). In *Alice*, the Supreme Court articulated a two-step framework for analyzing whether claims are patent-eligible under Section 101. *Id.* at 217. First, courts must ask if the claims at issue are “directed to” a judicial exception to Section 101, such as an abstract idea. *See id.* If the claims are not directed to a judicial exception, the inquiry ends. *Thales Visionix, Inc. v. United States*, 850 F.3d 1343, 1346 (Fed. Cir. 2017). If the claims are directed to an exception, courts continue to the second step of the inquiry, which considers whether the claims contain an “inventive concept” sufficient to “transform the nature of the claim into a patent-eligible application.” *Alice*, 573 U.S. at 217, 221.

The first Asserted Claim, Claim 1 of the '649 Patent, recites:

1. A method for establishing and sending data during a multipath connection comprising:

a data-source device receiving multipath information about each of a plurality of network-edge devices that is capable of joining a multipath connection with a data requesting device, each of the network-edge devices being connected to one or more networks, and each of the network-edge devices being connected to the data requesting device over a different connection; and

the data-source device performing at least one of (i) sending different groups of data packets to different network edge devices that are participating in the multipath connection, (ii) sending different streams of data to one or more of the network-edge devices that are participating in the multipath connection, and (iii) sending combinations of different streams and different groups of data packets to one or more of the network-edge devices that are participating in the multipath connection.

(Compl., Exhibit B, Dkt. 1-3, at 20). The second Asserted Claim, Claim 7 of the '649 Patent, recites:

7. A method for establishing and sending data during a multipath connection, comprising:

the data-source device receiving multipath connection requests from a plurality of data-requesting devices, each of the multipath connection requests involving a particular multipath connection to a data-requesting device;

the data-source device associating a connection ID to each multipath connection request;

the data-source device using multipath information about each of a plurality of network-edge devices that is capable of joining in a particular multipath connection to a particular data-requesting device, the particular multipath connection having a particular connection ID;

the data-source device notifying each of the network-edge devices that is participating in the particular multipath connection associated with the particular connection ID; and

the data-source device sending data associated with the particular connection ID to the network-edge devices participating in the particular multipath connection associated with the particular connection ID.

(*Id.* at 21).

In determining whether the Asserted Claims recite patent-eligible subject matter, the Court begins and ends with *Alice* step one—determining whether the Asserted Claims are “directed to” an abstract idea. Oracle asserts that Claim 1 describes two steps, “receiving information” and “sending” groups of data packets. (Mot. Dismiss, Dkt. 19, at 6). Oracle describes Claim 7 as “similar to Claim 1, but [it] also recites receiving connection requests and association information (such as a connection ID) with those requests.” (*Id.* at 5). Oracle argues that the Asserted Claims are directed to the abstract idea of “sending data to devices over a network using information or parameters.” (*Id.* at 6). Oracle compares the Asserted Claims to claims held ineligible under Section 101 in *Two-Way Media Ltd. v. Comcast Cable Communications, LLC*. See 874 F.3d 1329, 1338 (Fed. Cir. 2017).

CAS responds that the Asserted Claims provide a technological solution to the problem of “limited bandwidth and availability of a single network connection.” (Resp., Dkt. 28, at 9–10). CAS contends that the Asserted Claims provide a “specific improvement to network functionality” by transferring data over multiple connections (*i.e.*, a “multipath connection”) instead of a single network connection, thus providing higher network speeds, increased availability, and greater efficiency. (*Id.* at 10). CAS compares the Asserted Claims to claims held eligible in *TecSec, Inc. v.*

Adobe Inc. and Luminati Networks Ltd. v. Code200, UAB. See 978 F.3d 1278, 1296 (Fed. Cir. 2020); No. 2:19-CV-00396-JRG, 2021 WL 467591, at *5 (E.D. Tex. Feb. 9, 2021).

The Court agrees with CAS that Oracle fails to meet its burden to establish that the Asserted Claims are ineligible under Section 101. Oracle’s characterization of the Asserted Claims as “focus[ing] on the concept of sending data to devices over a network using information or parameters” overgeneralizes the Asserted Claims. (Mot. Dismiss, Dkt. 19, at 12); see *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1337 (Fed. Cir. 2016) (“describing the claims at such a high level of abstraction and untethered from the language of the claims all but ensures that the exceptions to [Section] 101 swallow the rule”). As CAS points out, the claim language recites sending and receiving information over an improved means of network functionality that includes a data-source device and a multipath connection. (Compl., Exhibit B, Dkt. 1-3, at 20–21). The Court agrees with CAS that the Asserted Claims recite a specific solution to a technological problem, not an abstract idea. See *TecSec, Inc.*, 978 F.3d at 1293. Because the Asserted Claims are not directed to an abstract idea, the Court need not proceed to *Alice* step two. See *Thales*, 850 F.3d at 1346. The Court will deny Oracle’s motion to dismiss with respect to the eligibility of the Asserted Claims in the ’649 Patent.

B. CAS plausibly alleges that Oracle infringes the ’908 Patent.

Second, Oracle argues that CAS fails to plausibly allege infringement of the ’908 Patent because the complaint and accompanying claim charts do not allege that Oracle’s Accused Products satisfy all limitations of Claims 1 and 13. (Mot. Dismiss, Dkt. 19, at 14–15). Oracle contends that CAS fails to plausibly allege that the Accused Products contain the “multilink session identification,” “destination URL,” “first message,” and “second message” limitations detailed in Claims 1 and 13 of the ’908 Patent. (Reply, Dkt. 30, at 5). CAS responds that it need not list each element and sub-element of the claims and map them on the Accused Products. (Resp., Dkt. 28, at 14–15). The Court agrees. At this stage of the litigation, CAS need only “place the alleged infringer ‘on notice of

what activity . . . is being accused of infringement.” *Bot M8*, 4 F.4th at 1352 (quoting *Lifetime*, 869 F.3d at 1379). Having drawn all inferences in CAS’s favor, the Court concludes that CAS’s complaint and accompanying claim charts do just that.

IV. CONCLUSION

For these reasons, **IT IS ORDERED** that Oracle’s Motion to Dismiss Pursuant to Federal Rule of Civil Procedure 12(b)(6), (Dkt. 19), is **DENIED**.

SIGNED on June 7, 2023.



ROBERT PITMAN
UNITED STATES DISTRICT JUDGE