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Cloud Technology Co., Ltd.
9

10 **IN THE UNITED STATES DISTRICT COURT**
11 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

12
13
14 ANCORА TECHNOLOGIES, INC.,
15
16 Plaintiff,

17 vs.

18 TCT MOBILE (US) INC., HUIZHOU
TCL MOBILE COMMUNICATION
19 CO., LTD., and SHENZHEN TCL
CREATIVE CLOUD TECHNOLOGY
20 CO., LTD.,

21 Defendants.

Case No. 8:19-cv-02192-GW-ASx
(LEAD CASE)

Case No. 2:20-cv-01252-GW-ASx
(CONSOLIDATED CASE)

**DEFENDANTS’
MEMORANDUM OF POINTS
AND AUTHORITIES IN
SUPPORT OF MOTION TO
DISMISS THE AMENDED
COMPLAINT FOR FAILURE
TO STATE A CLAIM**

Hearing Date: April 20, 2020
Time: 8:30 AM
Before: Hon. George H. Wu
United States Courthouse
Courtroom 9D, 9th Floor

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1 **I. INTRODUCTION**

2 Plaintiff Ancora Technologies, Inc. (“Ancora”) alleges that defendants TCT
3 Mobile (US) Inc., Huizhou TCL Mobile Communication Co., Ltd., and Shenzhen
4 TCL Creative Cloud Technology Co., Ltd. (collectively “TCL”) infringe U.S. Patent
5 No. 6,411,941 (“’941 Patent”). Because the Amended Complaint (Dkt. No. 24) fails
6 to state a plausible claim for relief under the Supreme Court’s *Iqbal/Twombly*
7 standard, TCL moves the Court to dismiss the Amended Complaint.

8 The Amended Complaint fails to give TCL fair notice of the factual and legal
9 bases supporting Ancora’s claim that TCL directly infringes the ’941 Patent, and
10 the Amended Complaint should thus be dismissed under Federal Rule of Civil
11 Procedure 12(b)(6) for at least the following reasons:

12 1. Ancora fails to identify the accused instrumentality. Although the ’941
13 Patent contains only method claims, Ancora does not identify or describe the series
14 of steps that supposedly practice the claimed method (i.e., an accused process).
15 Instead, it purports to identify “Accused Products,” but the Amended Complaint
16 contradicts itself about which products are accused. It initially identifies several
17 smartphones, but elsewhere identifies smartphones in apparent combination with
18 other non-smartphone devices.

19 2. Ancora alleges no facts showing which actions taken by the “Accused
20 Products” correspond to the asserted method. Such allegations are necessary to state
21 a claim because the technology is not so simple that the claim can be understood
22 without them, the patent itself provides little to no guidance on key claim elements,
23 and the accusations are directed at third-party technology.

24 3. Ancora alleges no facts showing that TCL controls or directs the use of
25 the accused smartphones at the time of the alleged infringement—after TCL has sold
26 them to end users. Ancora’s allegation that TCL preprograms the devices to perform
27 some (or perhaps all) of the claimed method steps is legally insufficient.

28

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