

1 M. Elizabeth Day (SBN 177125)
eday@feinday.com
2 Marc Belloli (SBN 244290)
mbelloli@feinday.com
3 **FEINBERG DAY KRAMER ALBERTI**
LIM TONKOVICH & BELLOLI LLP
4 577 Airport Blvd., Suite 250
Burlingame, CA. 94010
5 Tel: 650 825-4300/Fax 650 460-8443

6 Brian N. Platt (*Admitted pro hac vice*)
7 bplatt@wnlaw.com
8 Brent P. Lorimer (*Admitted pro hac vice*)
blorimer@wnlaw.com

9 **WORKMAN NYDEGGER**
60 East South Temple Suite 1000
10 Salt Lake City, UT 84111
11 Tel: 801-533-9800/Fax 801-328-1707

12 *Attorneys for Defendant Triller, Inc.*

13 IN THE UNITED STATES DISTRICT COURT
14 FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

15
16 BYTEDANCE INC., TIKTOK INC., and
TIKTOK PTE. LTD.,

17 Plaintiffs,

18 v.

19 TRILLER, INC.,

20 Defendant.

Case No: 4:20-cv-7572-JSW

**DEFENDANT'S MOTION FOR
JUDGMENT ON THE PLEADINGS
DISMISSING SECOND, THIRD, AND
FOURTH CLAIMS FOR RELIEF IN
SECOND AMENDED COMPLAINT**

Hon. Jeffrey S. White

Date: October 8, 2021
Time: 9:00 AM
Courtroom: 5

TABLE OF CONTENTS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

NOTICE OF MOTION AND MOTION 1

STATEMENT OF RELIEF SOUGHT 1

MEMORANDUM OF POINTS AND AUTHORITIES 1

I. PROCEDURAL BACKGROUND..... 1

II. STATEMENT OF RELEVANT FACTS 2

 A. Independent Claim 31 of the ’132 Patent 3

 B. Other Independent Claims 6

 C. Dependent Claims 6

III. ARGUMENT 8

 A. The Law of Eligible Subject Matter Under 35 U.S.C. § 101 8

 B. It Is Permissible to Address 35 U.S.C. § 101 Eligibility on the Pleadings..... 10

 C. The Asserted Claims Are Invalid on Their Face Under 35 U.S.C. § 101..... 10

 1. The Asserted Claims Are Directed to Organizing Human Activity in a Computerized Social Network, Which Is An Ineligible Abstract Idea..... 10

 a. Cases Involving Claims Directed to a Social Network..... 11

 b. The Specification’s Claimed Advance Over the Prior Art 13

 c. Analysis of Claims in This Case..... 14

 2. There Is Nothing in the Asserted Claims That Transforms Them Into “Significantly More” Than a Patent on an Abstract Idea 17

 a. Group One Claims 18

 b. Group Two Claims..... 19

 c. Group Three Claims..... 19

 d. Group Four Claims 21

 e. Group Five Claims 22

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

f. Group Six Claims.....23
g. Group Seven Claims24
h. Summary and Final Analysis24
IV. CONCLUSION.....25

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>Aatrix Software, Inc. v. Green Shades Software, Inc.</i> , 882 F.3d 1121 (Fed. Cir. 2018).....	10
<i>Accusystems, Inc. v. Honeywell Information Systems, Inc.</i> , 580 F.Supp. 474 (S.D.N.Y. 1984)	22
<i>Affinity Labs of Texas, LLC v. DIRECTV, LLC</i> , 838 F.3d 1253 (Fed. Cir. 2016).....	<i>passim</i>
<i>Ahmed v. Board of Regents of University System of Georgia</i> , 2008 WL 11319709 (N.D. Ga. 2008)	23
<i>Alice Corp. Pty. v. CLS Bank Int’l</i> , 573 U.S. 208 (2014).....	<i>passim</i>
<i>Ameranth, Inc. v. Domino’s Pizza, LLC</i> , 792 Fed. Appx. 780 (Fed. Cir. 2019).....	19
<i>Athena Diagnostics, Inc. v. Mayo Collaborative Services, LLC</i> , 915 F.3d 743 (Fed. Cir. 2019).....	9
<i>Baeco Plastics, Inc. v. Inacomp Financial Services, Inc.</i> , 1993 WL 410066 (N.D. Ill. 1993)	22
<i>Continental Circuits LLC v. Intel Corp.</i> , 915 F.3d 788 (Fed. Cir. 2019).....	2
<i>Customedia Technologies, LLC v. Dish Network Corp.</i> , 951 F.3d 1359 (Fed. Cir. 2020).....	18
<i>Diamond v. Chakrabarty</i> , 447 U.S. 303 (1980).....	8
<i>Diamond v. Diehr</i> , 450 U.S. 175 (1981).....	9
<i>Enfish, LLC v. Microsoft Corp.</i> , 822 F.3d 1327 (Fed. Cir. 2016).....	<i>passim</i>
<i>EpicRealm Licensing LLC v. Autoflex Leasing, Inc.</i> , 2006 WL 3099603 (E.D. Tex. 2006)	22

1	<i>GolfSwitch, Inc. v. Incuborn Solutions, Inc.</i> , 2008 WL 3069005 (D. Ariz. 2008).....	23
2	<i>Hal Roach Studios, Inc. v. Richard Feiner & Co.</i> ,	
3	896 F.2d 1542 (9th Cir. 1990)	10
4	<i>Intermec Technologies Corp. v. Palm Inc.</i> ,	
5	738 F.Supp.2d 522 (D. Del. 2010).....	22
6	<i>Kinglite Holdings Inc. v. Micro-Star Int'l Co.</i> ,	
7	2016 WL 4205356 (C.D. Cal. 2016).....	22
8	<i>Mayo Collaborative Services v. Prometheus Laboratories, Inc.</i> ,	
9	566 U.S. 66 (2012).....	9, 18, 21
10	<i>Natera, Inc. v. ArcherDX, Inc.</i> ,	
11	2020 WL 6043929 (D. Del. 2020)	18
12	<i>NetSoc, LLC v. Match Group, LLC</i> ,	
13	838 Fed. Appx. 544 (Fed. Cir. 2020).....	8, 11
14	<i>Reiffin v. Microsoft Corp.</i> ,	
15	1998 WL 397915 (N.D. Cal. 1998)	22
16	<i>Reiffin v. Microsoft Corp.</i> ,	
17	214 F.3d 1342 (Fed. Cir. 2000).....	22
18	<i>In re Reiffin</i> ,	
19	199 Fed.Appx 965 (Fed. Cir. 2006).....	22
20	<i>Salwan v. Iancu</i> ,	
21	825 Fed. Appx. 862 (Fed. Cir. 2020).....	8, 12
22	<i>In re Salwan</i> ,	
23	681 Fed. Appx. 938 (Fed. Cir. 2017).....	8, 12, 15, 21
24	<i>Search and Social Media Partners, LLC v. Facebook, Inc.</i> ,	
25	346 F.Supp.3d 626 (D. Del. 2018).....	12
26	<i>Silver State Intellectual Technologies v. Facebook Inc.</i> ,	
27	314 F.Supp.3d 1041 (N.D. Cal. 2018) (White, J.)	10
28	<i>Tele-Publishing, Inc. v. Facebook, Inc.</i> ,	
	252 F.Supp.3d 17 (D. Mass. 2017).....	12
	<i>In re TLI Communications LLC Patent Litigation</i> ,	
	823 F.3d 607 (Fed. Cir. 2016).....	8, 11

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.