IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

YODLEE, INC., Plaintiff, v. PLAID TECHNOLOGIES INC., Defendant.	Civil Action No. 14-1445-LPS-CJB

MEMORANDUM ORDER

At Wilmington this **27th** day of **January, 2017**:

1. This is a patent infringement case. On December 1, 2014, plaintiff Yodlee, Inc. ("Yodlee") filed a complaint alleging infringement of U.S. Patent Nos. 6,199,077 (the "'077 patent"), 6,317,783 (the "'783 patent"), 6,510,451 (the "'451 patent"), 7,263,548 (the "'548 patent"), 7,424,520 (the "'520 patent"), 7,752,535 (the "'535 patent"), and 8,266,515 (the "'515 patent").

2. On January 23, 2015, defendant Plaid Technologies, Inc. ("Plaid") moved to dismiss under Federal Rule of Civil Procedure ("Rule(s")) 12(b)(6). (D.I. 11) Plaid contends that all of the asserted claims are directed to patent-ineligible subject matter. Plaid's motion to dismiss was referred to United States Magistrate Judge Christopher J. Burke for a report and recommendation. (*See generally* D.I. 7)

3. On May 23, 2016, Judge Burke issued a 65-page Report and Recommendation, concluding that Plaid's motion to dismiss should be granted in part and denied in part. (*See* D.I. 185 ("R&R")) The parties filed their objections to the R&R on June 9, 2016 (*see* D.I. 198, 199), and their responses on June 27, 2016 (*see* D.I. 210, 211).

4. On October 12, 2016, Plaid filed a motion for summary judgment. (D.I. 264) Among other requested relief, Plaid seeks judgment of patent ineligibility with respect to all asserted claims of the seven patents in suit. (*See* D.I. 265 at 3-18)[1]

5. Evaluating a motion to dismiss under Rule 12(b)(6) requires the Court to accept as true all material allegations of the complaint. *See Spruill v. Gillis*, 372 F.3d 218, 223 (3d Cir. 2004). The Court may grant such a motion to dismiss only if, after "accepting all well-pleaded allegations in the complaint as true, and viewing them in the light most favorable to plaintiff, plaintiff is not entitled to relief." *Maio v. Aetna, Inc.*, 221 F.3d 472, 482 (3d Cir. 2000) (internal quotation marks omitted).

6. Summary judgment is appropriate if "there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Rule 56(a). The moving party bears the burden of demonstrating the absence of a genuine issue of material fact. *See Matsushita Elec. Indus. Co., Ltd. v. Zenith Radio Corp.*, 475 U.S. 574, 585-86 (1986).

7. Pursuant to 35 U.S.C. § 101, "[w]hoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor." There are three exceptions to § 101's broad patent-eligibility principles: "laws of nature, physical phenomena, and abstract ideas." *Diamond v. Chakrabarty*, 447 U.S. 303, 309 (1980). Relevant here is the third category, "abstract ideas," which "embodies the longstanding rule that an idea of itself is not patentable." *Alice Corp. Pty. Ltd. v. CLS Bank Int'l*, 134 S. Ct. 2347, 2355 (2014) (internal quotation marks omitted). In

[1]The Court will address the remainder of the issues presented in Plaid's motion for summary judgment at a later time, in one or more separate opinions and/or orders.

Mayo Collaborative Services v. Prometheus Laboratories, Inc., 132 S. Ct. 1289 (2012), the Supreme Court set out a two-step "framework for distinguishing patents that claim laws of nature, natural phenomena, and abstract ideas from those that claim patent-eligible applications of those concepts." *Alice*, 134 S. Ct. at 2355. First, courts must determine if the claims at issue are directed at a patent-ineligible concept – in this case, an abstract idea ("step 1"). *See id.* If so, the next step is to look for an "'inventive concept' – i.e., an element or combination of elements that is sufficient to ensure that the patent in practice amounts to significantly more than a patent upon the [ineligible concept] itself" ("step 2"). *Id.* The two steps are "plainly related" and "involve overlapping scrutiny of the content of the claims." *Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1353 (Fed. Cir. 2016).

8. The Court has carefully reviewed the R&R and all relevant filings and has evaluated Plaid's motion to dismiss *de novo*. *See Masimo Corp. v. Philips Elec. N. Am. Corp.*, 62 F. Supp. 3d 368, 379 (D. Del. 2014); 28 U.S.C. § 636(b)(1); Rule 72(b)(3). For the reasons given in Judge Burke's detailed § 101 analysis and further explained below, **IT IS HEREBY ORDERED THAT**:

(a) both parties' objections to the R&R (*see* D.I. 198, 199) are **OVERRULED**;

(b) the R&R (D.I. 185) is **ADOPTED** in full; and

(c) Plaid's motion to dismiss (D.I. 11) is **GRANTED** in part and **DENIED** in part.

9. Plaid's motion for summary judgment as it relates to ineligibility (D.I. 264; *see* D.I. 265 at 3-18) is **GRANTED** in part, **DENIED** in part, and **DENIED AS MOOT** in part.

10. As an initial matter, the Court is unpersuaded by Plaid's argument that Judge Burke incorrectly interpreted and applied *Enfish, LLC v. Microsoft Corporation*, 822 F.3d 1327 (Fed. Cir. 2016). (*See generally* D.I. 199 at 5-12) The Court does not read the R&R to "require every important aspect of the claim to be captured in the asserted abstract idea," as Plaid suggests. (D.I. 199 at 5 (internal quotation marks omitted)) Rather, Judge Burke's analysis properly considered, for example, "***the*** key concept in the claim" and the "rationale for the invention" underlying the '783 patent. (R&R at 27 (emphasis added)) An invention's underlying motivation (as incorporated by and expressed in the claim language) is an important factor in the step 1 analysis of whether a claim is "directed to an improvement to computer functionality." *Enfish*, 822 F.3d at 1335.

11. *'077 patent*. The Court agrees with Judge Burke's analysis and recommendation that Plaid's motion to dismiss be denied as to claim 7 of the '077 patent. (*See* R&R at 10-24) With respect to Yodlee's contention that Judge Burke should have found the claim patent eligible based on *Mayo* step 1 alone (*see* D.I. 198 at 2-5), and Plaid's related objection to the R&R's omission of a firm step 1 conclusion (*see* D.I. 199 at 8), the Court finds no error in the R&R's reliance on the step 2 "inventive concept" analysis as the basis to resolve the issue of claim 7's eligibility.[2] The Court also overrules Plaid's objection as it pertains to the R&R's step 2 analysis of the same claim. The Court is not persuaded by Plaid's assertion that the "'site-specific script' element adds nothing more than the general idea of having some script . . . for each site." (D.I.

[2]The Court disagrees with Plaid's assertion that the R&R inappropriately "stop[ped] short of considering whether the concept to which it finds the '077 patent to actually be directed . . . is abstract." (D.I. 199 at 8) The Court further finds Plaid's similar objections with respect to the R&R's analysis of the '783, '535, and '515 patents unavailing.

199 at 9 (emphasis omitted)) Although the claim language at issue in *DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245 (Fed. Cir. 2014), was more detailed than the language at issue here, Plaid's objection does not account fully for this site-specific script's operation by "extract[ion of] data values . . . based on the site's logic and structure," upon which the R&R relied. (D.I. 96 at 14; *see* R&R at 20, 23 n.13)

Nor does the record developed in connection with the summary judgment motion warrant a different result. Even assuming Plaid has shown the claim is directed to an abstract idea at step 1, the record reflects a genuine factual dispute over whether the software gathering agent as construed was "well-understood, routine, [or] conventional" at the time of the invention. *Bascom Glob. Internet Servs., Inc. v. AT&T Mobility LLC*, 827 F.3d 1341, 1350 (Fed. Cir. 2016) (internal quotation marks omitted). The Court is unconvinced by Plaid's attempt to brush this difference aside as immaterial. (*See* D.I. 300 at 2-3)

Therefore, Plaid's Rule 12(b)(6) and Rule 56 challenges to the asserted '077 patent claims' § 101 eligibility are both **DENIED**.

12. *'783 patent*. The Court agrees with Judge Burke's analysis and recommendation that Plaid's motion to dismiss be denied with respect to claim 1 of the '783 patent. (*See* R&R at 24-33) First, the Court agrees with the R&R's conclusion that Plaid failed to carry its burden at step 1 because its proposed abstract idea ("retrieving and storing personal information from multiple sources") failed to capture a key concept of the claim. (*See, e.g.*, R&R at 28 ("[T]he claim . . . is directed to a method of retrieving a particular ***type*** of personal information: that which would otherwise be blocked off behind a wall of security, such that verification of one's identity was necessary to access it.")) Second, the Court finds no error in the R&R's step 2

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