IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

GUADA TECHNOLOGIES LLC, Plaintiff, v. VICE MEDIA, LLC, Defendant.	Civil Action No. 17-1503-RGA

MEMORANDUM OPINION

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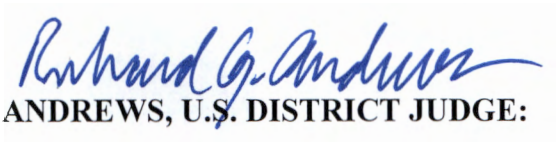

ANDREWS, U.S. DISTRICT JUDGE:

Presently before the Court is Defendant's Motion to Dismiss the Complaint Pursuant to Federal Rule of Civil Procedure 12(b)(6) (D.I. 13) and related briefing (D.I. 14, 17, 22). The Court held oral argument on April 13, 2018. The parties later filed follow-up submissions (D.I. 23, 24).

For the reasons that follow, the Court will deny Defendant's Motion to Dismiss.

I. BACKGROUND

Plaintiff filed a patent infringement action on October 24, 2017 against Defendant, alleging infringement of U.S. Patent No. 7,231,379 ("the '379 patent"). (D.I. 1). At that time, Plaintiff also filed actions against six other defendants. Five of those cases have been resolved, and the sixth, against Gibson Brands, Inc., was stayed and administratively closed on May 8, 2018, after the defendant filed a notice of bankruptcy. (No. 17-1498, D.I. 17, 19).

The Complaint alleges that Defendant is "infringing at least claim 1 of the '379 patent." (D.I. 1, ¶ 13). The '379 patent contains seven claims, which read as follows:

1. A method performed in a system having multiple navigable nodes interconnected in a hierarchical arrangement comprising:

   at a first node, receiving an input from a user of the system, the input containing at least one word identifiable with at least one keyword from among multiple keywords,

   identifying at least one node, other than the first node, that is not directly connected to the first node but is associated with the at least one keyword, and

   jumping to the at least one node.

2. The method of claim 1 further comprising:

   providing a verbal description associated with the at least one node to the user.

3. The method of claim 1 further comprising:

searching a thesaurus correlating keywords with synonyms.

4. The method of claim 3 wherein the searching further comprises:

identifying the at least one word as synonymous with the at least one keyword.

5. The method of claim 1 further comprising:

determining that the at least one word is neither a keyword nor a synonym of any keyword; and

learning a meaning for the word so that the word will be treated as a learned synonym for at least one particular keyword of the multiple keywords.

6. The method of claim 5 further comprising:

adding the word to a thesaurus so that, when the word is input by a subsequent user, the word will be treated as synonymous with the at least one particular keyword.

7. A method performed in connection with an arrangement of nodes representable as a hierarchical graph containing vertices and edges connecting at least two of the vertices, the method comprising:

receiving an input from a user as a response to a verbal description associated with a first vertex;

analyzing the input to identify a meaningful term that can be associated with at least one keyword;

selecting a vertex in the graph structure that is not connected by an edge to the first vertex, based upon an association between the meaningful term and the at least one keyword and a correlation between the at least one keyword and the vertex; and jumping to the vertex.

(D.I. 1-1, Exh. A, claims 1-7).

II. LEGAL STANDARD

A. Motion to Dismiss

Rule 8 requires a complainant to provide "a short and plain statement of the claim showing that the pleader is entitled to relief . . . ." Fed. R. Civ. P. 8(a)(2). Rule 12(b)(6) allows the accused party to bring a motion to dismiss the claim for failing to meet this standard. A Rule

12(b)(6) motion may be granted only if, accepting the well-pleaded allegations in the complaint as true and viewing them in the light most favorable to the complainant, a court concludes that those allegations "could not raise a claim of entitlement to relief." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 558 (2007).

B. Patent-Eligible Subject Matter

Section 101 of the Patent Act defines patent-eligible subject matter. It provides: "Whoever 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, subject to the conditions and requirements of this title." 35 U.S.C. § 101. The Supreme Court has recognized an implicit exception for three categories of subject matter not eligible for patentability—laws of nature, natural phenomena, and abstract ideas. *Alice Corp. Pty. v. CLS Bank Int'l*, 134 S. Ct. 2347, 2354 (2014). The purpose of these carve outs is to protect the "basic tools of scientific and technological work." *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 71 (2012). "[A] process is not unpatentable simply because it contains a law of nature or a mathematical algorithm," as "an application of a law of nature or mathematical formula to a known structure or process may well be deserving of patent protection." *Id.* (emphasis omitted). In order "to transform an unpatentable law of nature into a patent-eligible application of such a law, one must do more than simply state the law of nature while adding the words 'apply it.'" *Id.* at 72 (emphasis omitted).

The Supreme Court recently reaffirmed the framework laid out in *Mayo* "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, the court must determine whether the claims are drawn to a patent-ineligible concept. *Id.* If the

answer is yes, the court must look to "the elements of the claim both individually and 'as an ordered combination'" to see if there is 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.'" *Id.* (alteration in original). "A claim that recites an abstract idea must include 'additional features' to ensure 'that the [claim] is more than a drafting effort designed to monopolize the [abstract idea].'" *Id.* at 2357 (alterations in original) (quoting *Mayo*, 566 U.S. at 77). "[S]imply appending conventional steps, specified at a high level of generality, to . . . abstract ideas cannot make those . . . ideas patentable." *Mayo*, 566 U.S. at 82. Further, "the prohibition against patenting abstract ideas cannot be circumvented by attempting to limit the use of [the idea] to a particular technological environment." *Alice*, 134 S. Ct. at 2358 (quoting *Bilski v. Kappos*, 561 U.S. 593, 610–11 (2010)). Thus, "the mere recitation of a generic computer cannot transform a patent-ineligible abstract idea into a patent-eligible invention." *Alice*, 134 S. Ct. at 2358. For this second step, the machine-or-transformation test can be a "useful clue," although it is not determinative. *Ultramercial, Inc. v. Hulu, LLC*, 772 F.3d 709, 716 (Fed. Cir. 2014), *cert. denied*, 135 S. Ct. 2907 (2015).

Patent eligibility under § 101 is a question of law suitable for resolution on a motion to dismiss. *See OIP Techs., Inc. v. Amazon.com, Inc.*, 788 F.3d 1359, 1362 (Fed. Cir. 2015); *Content Extraction & Transmission LLC v. Wells Fargo Bank, Nat. Ass'n*, 776 F.3d 1343, 1346 (Fed. Cir. 2014), *cert. denied*, 136 S. Ct. 119 (2015). However, "[t]he question of whether a claim element or combination of elements is well-understood, routine and conventional to a skilled artisan in the relevant field," which underlies the second step of the *Mayo/Alice* inquiry, "is a question of fact. Any fact, such as this one, that is pertinent to the invalidity conclusion must be proven by clear and convincing evidence." *Berkheimer v. HP Inc.*, 881 F.3d 1360, 1368

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