NOTE: This disposition is nonprecedential.

United States Court of Appeals for the Federal Circuit

DROPBOX, INC., ORCINUS HOLDINGS, LLC,
Plaintiffs-Appellants

v.

SYNCHRONOSS TECHNOLOGIES, INC.,
Defendant-Appellee

2019-1765, 2019-1767, 2019-1823

Appeals from the United States District Court for the Northern District of California in Nos. 5:18-cv-03685-LHK, 5:18-cv-06199-LHK, Judge Lucy H. Koh.

Decided: June 19, 2020

GREGORY H. LANTIER, Wilmer Cutler Pickering Hale and Dorr LLP, Washington, DC, argued for plaintiffs-appellants. Also represented by RICHARD ANTHONY CRUDO; ELIZABETH BEWLEY, Boston, MA.

NICHOLAS HUNT JACKSON, Dentons US LLP, Washington, DC, argued for defendant-appellee. Also represented by MARK LEE HOGGE, RAJESH CHARLES NORONHA; KEVIN R. GREENLEAF, Lovettsville, VA; SARAH S. ESKANDARI, San Francisco, CA.

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Before PROST, *Chief Judge,* WALLACH and HUGHES, *Circuit Judges.*

HUGHES, *Circuit Judge*.

Dropbox, Inc., and its wholly owned subsidiary, Orcinus Holdings, LLC, appeal the district court's decision holding three of their patents ineligible under 35 U.S.C. § 101. We agree with the district court that the patents claim abstract ideas, and that the claims provide no inventive concept transforming the abstract idea into patentable subject matter. We therefore affirm the district court's decision.

I

In June 2018, Dropbox filed suit against Synchronoss Technologies, Inc., alleging infringement of three patents. *Dropbox, Inc. v. Synchronoss Techs., Inc.*, 371 F. Supp. 3d 668, 677 (N.D. Cal. 2019). The three asserted patents, U.S. Patent Numbers 6,178,505, 6,058,399, and 7,567,541, relate to, respectively, "Secure Delivery of Information in a Network," "File Upload Synchronization," and a "System and Method for Personal Data Backup for Mobile Customer Premises Equipment." *See* '505 Patent, title; '399 Patent, title; '541 Patent, title.

Because Orcinus Holdings owns the '541 patent, Dropbox amended its complaint to remove the '541 patent, and Orcinus Holdings filed a suit asserting the '541 patent against Synchronoss. *Dropbox,* 371 F. Supp. 3d at 677–78; *Orcinus Holdings, LLC v. Synchronoss Techs., Inc.*, 379 F. Supp. 3d 857, 861 (N.D. Cal. 2019). Synchronoss moved to dismiss the claims, arguing that the patents are invalid due to their ineligibility under 35 U.S.C. § 101. *Dropbox,* 371 F. Supp. 3d at 678. The district court agreed with Synchronoss, issuing orders holding all three patents

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invalid for failing to claim eligible subject matter. *See id.* at 700; *Orcinus Holdings*, 379 F. Supp. 3d at 883.

Dropbox[1] timely appealed. We have jurisdiction over the consolidated appeals under 28 U.S.C. § 1295(a)(1).

II

We review a district court's dismissal for failure to state a claim under the law of the regional circuit—here, the Ninth Circuit. *Bascom Glob. Internet Servs., Inc. v. AT&T Mobility LLC*, 827 F.3d 1341, 1347 (Fed. Cir. 2016). The Ninth Circuit reviews the grant of a motion to dismiss de novo. *Skilstaf, Inc. v. CVS Caremark Corp.*, 669 F.3d 1005, 1014 (9th Cir. 2012). In evaluating a motion to dismiss, the district court need not "assume the truth of legal conclusions merely because they are cast in the form of factual allegations." *Fayer v. Vaughn*, 649 F.3d 1061, 1064 (9th Cir. 2011) (quoting *W. Min. Council v. Watt*, 643 F.2d 618, 624 (9th Cir. 1981)). "[C]onclusory allegations of law and unwarranted inferences are insufficient to defeat a motion to dismiss." *Adams v. Johnson*, 355 F.3d 1179, 1183 (9th Cir. 2004).

"Patent eligibility under 35 U.S.C. § 101 is ultimately an issue of law we review de novo. [But] [t]he patent eligibility inquiry may contain underlying issues of fact." *Berkheimer v. HP Inc.*, 881 F.3d 1360, 1365 (Fed. Cir. 2018). For example, "[w]hether a claim 'supplies an inventive concept that renders a claim "significantly more" than an abstract idea to which it is directed is a question of law' that may include underlying factual determinations." *ChargePoint, Inc. v. SemaConnect, Inc.*, 920 F.3d 759, 773 (Fed. Cir. 2019) (quoting *BSG Tech LLC v. Buyseasons, Inc.*, 899

[1] As did Orcinus Holdings; we refer to Orcinus collectively with its parent company as Dropbox.

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F.3d 1281, 1290 (Fed. Cir. 2018), in turn quoting *Alice Corp. Pty. v. CLS Bank Int'l*, 573 U.S. 208, 218 (2014)).

"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. But the Supreme Court has "long held that this provision contains an important implicit exception: Laws of nature, natural phenomena, and abstract ideas are not patentable." *Alice*, 573 U.S. at 216.

"To determine whether claimed subject matter is patent-eligible, we apply the two-step framework explained in *Alice*." *Koninklijke KPN N.V. v. Gemalto M2M GmbH*, 942 F.3d 1143, 1149 (Fed. Cir. 2019) (citation omitted). In the first step, we "determine whether the claims at issue are directed to a patent-ineligible concept" such as an abstract idea. *Alice*, 573 U.S. at 218. If the claims are not directed to an abstract idea, the claims are patent eligible. If the claims are directed to an abstract idea, we proceed to the second step, in which we "examine the elements of the claim to determine whether it contains an inventive concept sufficient to transform the claimed abstract idea into a patent-eligible application." *Id.* at 221 (internal quotation marks omitted).

Because the patents lack common features, we discuss each patent's eligibility individually. We then address an issue common to all three patents: the sufficiency of Dropbox's factual allegations of the patents' inventiveness.

A

The '505 patent, entitled "Secure Delivery of Information in a Network," was filed on March 4, 1998, and claims priority from March 1997 provisional applications. '505 Patent, cover sheet. The district court found the '505 patent "generally relate[d] to data security" and "specifically directed to 'providing only as much authentication

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and encryption security as is required for a given user, a given path through the network [to a given information resource], and a given [information] resource.'" *Dropbox*, 371 F. Supp. 3d at 675 (quoting '505 Patent at col. 5 l. 67–col. 6 l. 3) (alterations in original).

The district court found independent claim 1 representative, *id.* at 694; claim 1 recites

> 1. Apparatus that provides an information resource in response to a request from a user, the request including an identification of the user according to a mode of identification and the apparatus comprising:
>
> access control information including
>
> a sensitivity level associated with the resource and
>
> a trust level associated with the mode of identification; and
>
> an access checker which permits the apparatus to provide the resource only if the trust level for the mode of identification is sufficient for the sensitivity level of the resource.

'505 Patent at col. 49 ll. 2–13. Dropbox argues on appeal that the district court should have separately considered the eligibility of dependent claim 8, Appellants' Br. 37–38; claim 8 recites

> 8. The apparatus set forth in any one of claims 1 through 4 wherein:
>
> the access request is transferred via a path in a network; and
>
> the access control information further includes
>
> a path trust level associated with the path and
>
> an encryption trust level associated with an encryption method,

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