IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

UNILOC USA, INC., AND UNILOC LUXEMBOURG S.A.,	§ § §	
Plaintiffs,	§ §	
v.	§ §	CASE NO. 6:12-CV-375
RACKSPACE HOSTING, INC., AND RACKSPACE US, INC.,	§ § §	
Defendants.	§ §	

MEMORANDUM OPINION AND ORDER

Before the Court is Defendants' Motion to Dismiss Plaintiffs' Complaint for Failure to Allege Infringement of a Patentable Claim Under 35 U.S.C. § 101 (Dkt. No. 16). After considering the parties' briefing and arguments, the Court **GRANTS** the motion and **ORDERS** that the above-styled and numbered cause is hereby dismissed.

BACKGROUND

Plaintiffs, Uniloc USA, Inc. and Uniloc Luxembourg S.A. (collectively, "Uniloc"), filed suit against Defendants Rackspace Hosting, Inc., and Rackspace US, Inc. (collectively, "Rackspace"), alleging infringement of U.S. Patent No. 5,892,697 ("the '697 patent"). The '697 patent is directed to a method for processing floating-point numbers. '697 Patent, Col. 1:8–9. Floating-point numbers are numbers in a computer that have digits to the right of the decimal point. The floating-point numbers described in the '697 patent have at least three fields: (i) a sign to indicate positive or negative; (ii) an exponent; and (iii) a mantissa, which is the body of the number. *Id.* at 1:28–32. For a computer, processing floating-point numbers is more complex than

processing integers, which do not require computation of these additional fields. To unify the methods for computing floating-point numbers, the Institute of Electrical and Electronics Engineers ("IEEE") implemented the IEEE Standard 754. This standard has since been broadly implemented and is now found in PCs around the world.

The '697 Patent purports to increase computational efficiencies compared to the IEEE Standard 754. Under the standard, the floating-point number to be processed is loaded into a memory register and undergoes the necessary arithmetic operation with all its fields. At the end of the process, the result is rounded. The invention, in contrast, optimizes the floating-point number for processing by rounding it *before* the arithmetic operation.

Rackspace argues that the invention is not patentable subject matter and asks the Court to dismiss Uniloc's complaint under Federal Rule of Civil Procedure 12(b)(6). Although the '697 patent in suit has twenty-seven claims, Uniloc only asserts Claim 1 against Rackspace. Dkt. No. 23 at 2. Therefore, only Claim 1 is at issue for the instant motion. Claim 1 reads as follows:

> **Claim 1.** A method for processing floating-point numbers, each floating-point number having at least a sign portion, an exponent portion and a mantissa portion, comprising the steps of:
>
> converting a floating-point number memory register representation to a floating-point register representation;
>
> rounding the converted floating-point number;
>
> performing an arithmetic computation upon said rounded number resulting in a new floating-point value;
>
> converting the resulting new floating-point register value to a floating-point memory register representation.

'697 Patent, Col. 14:46–56.

APPLICABLE LAW

A complaint must "state a plausible claim for relief" to survive a motion to dismiss. *Ashcroft v. Iqbal*, 556 U.S. 662, 679 (2009). "When the allegation in a complaint, however true, could not raise an entitlement to relief, 'this basic deficiency should . . . be exposed at the point of minimum expenditure of time and money by the parties and the court.'" *Bell Atlantic Corp. v Twombly*, 550 U.S. 544, 558 (2007) (quoting 5 WRIGHT & MILLER § 1216, at 233–34). Section 101 questions of patentability may be resolved before claim construction. *See Bancorp Services, L.L.C. v. Sun Life Assur. Co. of Canada (U.S.)*, 687 F.3d 1266, 1273–74 (Fed. Cir. 2012) (affirming invalidation of a patent under 35 U.S.C. § 101 without claim construction). Invalidity under section 101 is a question of law. *In re Bilski*, 545 F.3d 943, 951 (Fed. Cir. 2008). In determining whether a claim is drawn to patentable subject matter, the court considers the claim as a whole rather than dissecting and evaluating some elements separately from the rest. *Diamond v. Diehr*, 450 U.S. 175, 188 (1981).

Section 101 of the Patent Act defines the four broad categories of patentable subject matter as "any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof . . . ." 35 U.S.C. § 101 (2006). "In choosing such expansive terms . . . modified by the comprehensive 'any,' Congress plainly contemplated that the patent laws would be given wide scope." *Bilski v. Kappos*, 561 U.S. __, 130 S. Ct. 3218, 3225 (2010) ("*Bilski II*") (quoting *Diamond v. Chakrabarty*, 447 U.S. 303, 308 (1980)).

Although section 101 encompasses a broad domain of patentable subject matter, the Supreme Court has recognized three exceptions: "laws of nature, physical phenomena, and abstract ideas." *Chakrabarty*, 447 U.S. at 309. Laws of nature and physical phenomena are not patentable subject matter "because those categories embrace 'the basic tools of scientific and technological work.'" *Research Corp. Techs., Inc. v. Microsoft Corp.*, 627 F.3d 859, 868 (Fed.

Cir. 2010) (quoting *Gottschalk v. Benson*, 409 U.S. 63, 67, 93 S. Ct. 253 (1972)). The *application* of such laws and formulae, however, may fall within the bounds of patentability marked by section 101. *Diehr*, 450 U.S. at 187. Furthermore, while abstractness places subject matter outside the statutory categories, "inventions with specific applications or improvements to technologies in the marketplace are not likely to be so abstract that they override the statutory language and framework of the Patent Act." *Research Corp.*, 627 F.3d at 868–69.

ANALYSIS

Defendants argue that Claim 1 is unpatentable subject matter because it fails the Federal Circuit's "machine-or-transformation" test and violates the Supreme Court's bright-line prohibition against patenting mathematical formulas and abstract ideas. Although Uniloc originally questioned the timing of Defendants' section 101 validity arguments, Uniloc agrees to resolution of this issue on the merits at this stage to advance the litigation. Dkt. No. 23 at 1–2.

Machine-or-Transformation Test

The machine-or-transformation test is "a useful and important clue" for determining patent eligibility of inventions. *Bilski II*, 130 S. Ct. at 3227. According to the machine-or-transformation test, a process may be patentable if it "(1) is tied to a particular machine or apparatus, or (2) it transforms a particular article into a different state or thing." *Id*. at 3225–26. However, The Supreme Court has clarified that it "is not the sole test" of patent eligibility. *Id.* Thus, Claim 1 is analyzed under the machine-or-transformation test, as a useful clue to determine patentability, but that does not end the inquiry.

Defendants argue that Claim 1 fails the machine prong because it recites no machine whatsoever. Dkt. No. 16 at 15. They also argue that, under *Benson*, the transformation portion of the test is not satisfied by the conversion of a number from one format to another. *Id*. (citing *Benson*, 409 U.S. at 70). Defendants contend that the floating-point-register representations in

Claim 1 are simply formats in which certain numbers are presented, thus there is no meaningful transformation. *Id.* Plaintiffs cursorily respond that Information Age inventions are less suited than Industrial Age inventions for analysis under the machine-or-transformation test, but do not present further argument on this point. Dkt. No. 23 at 11.

Claim 1 of the '697 patent does not recite a machine. It only recites steps to manipulate a floating-point number, to perform an arithmetic computation with it, and to produce another representation of a number. Therefore, the claim fails the machine prong of the test.

Claim 1 also fails the transformation prong of the test. Mere manipulation of data does not result in a meaningful transformation. *See Cybersource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1375 (Fed. Cir. 2012) ("mere manipulation or reorganization of data . . . does not satisfy the transformation prong"); *see also Bancorp,* 687 F. 3d at 1273 (affirming invalidity of patent that failed the transformation test because it did "not transform the raw data into anything other than more data"). Claim 1 involves converting the floating-point number into a different format, performing an arithmetic operation, and converting the result back to the original floating-point number format. This is merely manipulating data. Thus, Claim 1 does not satisfy the transformation prong either.

However, the fact that Claim 1 does not pass the machine-or-transformation test does not, alone, render it patent-ineligible. *See Bilski II*, 130 S. Ct. at 3227.

Exceptions to Patentability

The pertinent question to determine patent eligibility is whether the claim at issue is drawn to one of "three specific exceptions to section 101's broad patent-eligibility principles: laws of nature, physical phenomena, and abstract ideas." *Bilski II*, 130 S. Ct. 3218, 3225 (2010) (internal quotations omitted). Specifically, the question is whether Claim 1 recites a mathematical formula and therefore falls under the "law of nature" exception to patentability.

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