

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

UNIVERSAL SECURE REGISTRY LLC,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 17-585 (JFB) (SRF)
	)	
APPLE INC., VISA INC., and	)	
VISA U.S.A., INC.,	)	
	)	
Defendants.	)	

**PLAINTIFF'S ANSWERING BRIEF IN OPPOSITION TO  
DEFENDANTS' MOTION TO DISMISS PLAINTIFF'S COMPLAINT**

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## I. NATURE AND STAGE OF THE PROCEEDINGS

This is the Answering Brief of Plaintiff Universal Secure Registry, LLC ("USR") in opposition to Defendants' Rule 12(b)(6) Motion seeking to dismiss, as invalid under 35 U.S.C. §101, all 111 claims of USR's four patents-in-suit (the "Asserted Patents").

## II. SUMMARY OF ARGUMENT

1. The claims of the four Asserted Patents are directed to patent-eligible subject matter under 35 U.S.C. Section 101 ("any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof.") Defendants fail to show that any of the 111 claims fall within the three narrow exceptions of §101: "laws of nature, physical phenomena, and abstract ideas." *Bilski v. Kappos*, 561 U.S. 593, 601-02 (2010) ("*Bilski II*"). The Supreme Court has expressed its reluctance to broadly apply these three narrow judicial exceptions: "[W]e tread carefully in construing this exclusionary principle, lest it swallow all of patent law.... At some level, 'all inventions. . . embody, use, reflect, rest upon, or apply laws of nature, natural phenomena, or abstract ideas.'" *Alice Corp. Pty. Ltd. v. CLS Bank Int'l*, 134 S. Ct. 2347, 2354 (2014).

2. Defendants argue that *all 111 claims* of the Asserted Patents are invalid under § 101, but their motion is fatally flawed. Defendants have sought to oversimplify the inventions in suit, a common error in such motions as courts have noted with increasing frequency. Section 101 is inclusive, while the judicial exceptions to it are narrow. Defendants' approach flips this balance, advancing the argument that patent eligible claims that include computer components are an exception. In doing so, Defendants ignore many of the key limitations in the claims, and fail to account for how the claims might be construed in a *Markman* hearing. The specifications show that the claimed inventions are directed to concrete and useful improvements to current electronic payment technologies and devices, and are demonstrably valid under the analysis of *Alice* and its progeny. The problems addressed by the Asserted Patents are firmly rooted in *technological*

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