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7 UNITED STATES DISTRICT COURT
8 SOUTHERN DISTRICT OF CALIFORNIA

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10 In re WEST VIEW RESEARCH, LLC
11 patent cases

Case Nos.:
14-CV-2668-CAB (WVG)
14-CV-2670-CAB (WVG)
14-CV-2675-CAB (WVG)
14-CV-2677-CAB (WVG)
14-CV-2679-CAB (WVG)

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14 **ORDER GRANTING MOTIONS**
15 **FOR JUDGMENT ON THE**
16 **PLEADINGS**

17 Before the Court is plaintiff West View Research’s motion for leave to assert
18 alternative claims. [Doc. No. 63.]¹ Defendant Tesla filed an opposition [Doc. No. 67],
19 which was joined by defendants Nissan, BMW and Hyundai. Defendants Audi AG,
20 Volkswagen AG and Volkswagen Group of America (collectively “VW”) filed a separate
21 opposition. [Doc. No. 81, in 14cv2668.] West View filed a reply. [Doc. No. 69.] The Court
22 finds this motion suitable for determination on the papers submitted and without oral
23 argument in accordance with Civil Local Rule 7.1(d)(1).

24 **I. Background**

25 The Court’s previous order granting judgment on the pleadings provides a detailed
26 background of these cases and description of the patents at issue, so only a short
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¹ Cites are to the docket entries in West View v. Tesla, 14cv2679, unless otherwise noted.

1 introduction is needed here. [See Doc. No. 58.] These cases involve 11 continuation
2 patents, all issued from the same parent specification, numerous claims of which are
3 asserted in various combinations in the five individual cases. For purposes of efficient case
4 management, the cases were consolidated for discovery, claim construction and invalidity
5 challenges. The Court initially ordered Plaintiff to select a maximum of seven claims from
6 each patent for assertion against Defendants.

7 The defendants in four of the cases² jointly filed a motion for judgment on the
8 pleadings for a determination that all the selected claims for nine of the patents at issue³ in
9 these cases describe subject matter that is not eligible for patenting under 35 U.S.C. §101
10 and are invalid. On December 11, 2015, the Court granted that motion. [Doc. No. 58.] The
11 Court found that all the selected claims of the nine patents were substantially similar and
12 linked to the same abstract idea. The claims did not include an element or combination of
13 elements sufficient to ensure that the patents in practice amount to significantly more than
14 a patent upon the ineligible concept itself.

15 Before the entry of judgment for Defendants, however, the Court allowed Plaintiff
16 an opportunity to select alternative claims from each of the nine patents if Plaintiff could
17 demonstrate in good faith that the claims were distinguishable from the primary set of
18 claims Plaintiff elected to assert. To that end, Plaintiff has identified 32 alternative claims
19 in seven of the nine patents. Plaintiff declined to offer alternative claims for U.S. Patents
20 8,682,673 and 8,706,504.

21 **II. The Alternative Claims Are Not Distinguishable**

22 West View has not demonstrated that the substitute claims it has elected to assert are
23 distinguishable from the original group of claims. As Defendants persuasively outline in
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25 ² The VW defendants did not join the initial motion for judgment on the pleadings, but all the patents and
26 claims asserted against the VW defendants were the subject of that motion.

27 ³ Defendants did not address claims under U.S. Patent Nos. 8,301,456 and 8,311,834 in connection with
28 the motion for judgment on the pleadings, and the asserted claims under these patents are not at issue in
the instant motion. These patents are only asserted in case 14cv2670, West View v. BMW, and remain at
issue in that case.

1 their oppositions, the replacement claims are virtually indistinguishable from one or more
2 of the previously asserted claims, all of which the Court found invalid under 35 U.S.C.
3 §101. [See Doc. Nos. 67-2 through 67-5; Doc. No. 81-1 through 81-8 in 14cv2668.]

4 Instead of distinguishing the substitute claims it wants to assert from the claims the
5 Court found invalid, West View's motion essentially reiterates its position that the claims
6 of these continuation patents are for inventive combinations of known components that
7 achieve significantly more than the idea of a computer system receiving an input query,
8 retrieving information and generating either a visual or audio response. Again despite the
9 unambiguous statements in the specification that the disclosure requires no particular
10 combination of components, all of which are known in the art, and utilizes well-known
11 architectures and algorithms, West View contends that the parent specification discloses
12 novel and nonobvious systems and/or algorithmic configurations to provide information to
13 a system user. West View even boasts that its system and user interface combinations have
14 been broadly adopted in a vast array of technologies such as smartphones, tablets, vehicles
15 and other platforms. [See Doc. No. 74-1, at 10, fn. 6.] This only underscores the high level
16 of abstraction of the disclosure and the claims – to receive an information request from a
17 user, access the information from a remote server, display the information to the user and/or
18 transfer it to a portable device associated with the user.

19 The Court rejected this argument when it granted Defendants' motion for judgment
20 on the pleadings with respect to the initially asserted claims, and West View has not
21 identified an element or combination of elements in the proposed alternate claims that
22 warrants a different result here. None of the alternate claims support West View's
23 contention that these continuation patents claim more than a combination of conventional
24 computer components that respond to a user query for information. Indeed, the patent
25 examiner in a recent Office Action of an ongoing prosecution of another continuation
26 patent to this parent application also rejected a number of proposed claims similar to those
27 at issue in this litigation, on the grounds that those claims were directed to an abstract idea.
28 The examiner also found that the claims do not include elements sufficient to amount to

1 significantly more than the abstract idea. [Doc. No. 83, fn. 2, citing to U.S. Patent
2 Application Serial No. 13/733,098.]⁴

3 III. Conclusion

4 The proposed alternate claims are not distinguishable from those the Court deemed
5 invalid because they do not claim more than a combination of conventional computer
6 components that respond to a user query for information. West View's motions to proceed
7 on these substitute claims, therefore, are **DENIED**. Accordingly, for all of the reasons
8 stated in the Court's order granting judgment on the pleadings [Doc. No. 58.], the Clerk of
9 Court should enter **JUDGMENT** in favor the Defendants in case numbers 14cv2668,
10 14cv2675, 14cv2677, and 14cv2679. As for case number 14cv2670, all of Plaintiff's
11 infringement claims are dismissed aside from the claims under U.S. Patent Nos. 8,301,456
12 and 8,311,834.

13 In light of the foregoing, it is further **ORDERED** that West View's motions to stay
14 [see, e.g., Doc. No. 62 in case no. 14cv2679] and VW's Motion to Modify Limits on
15 Invalidity Contentions [Doc. No. 65 in case no. 14cv2668] are **DENIED** as moot. Further,
16 VW's motion for judgment on the pleadings [Doc. No. 79 in case no. 14cv2668] is
17 **GRANTED**, for all of the same reasons discussed in the Court's prior order granting
18 judgment on the pleadings [Doc. No. 58 in case no. 14cv2679] and herein.

19 It is **SO ORDERED**.

20 Dated: March 31, 2016



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22 Hon. Cathy Ann Bencivengo
23 United States District Judge
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26 ⁴ West View cited this prosecution history to demonstrate the PTO only rejected some of the pending
27 claims of its new application under §101. However, the file wrapper shows all the remaining claims were
28 also rejected as obvious and/or unsupported by the specification. The elements of the §101 rejected claims
appear to closely resemble those of the patents at issue in this litigation and the Patent Office rejection is
in accord with this Court's analysis.