IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

PERSONALIZED MEDIA COMMUNICATIONS, LLC, Plaintiff, v. AMAZON.COM, INC., AMAZON WEB SERVICES, LLC Defendants.	Civil Action No. 13-1608-RGA

MEMORANDUM OPINION

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ANDREWS, U.S. DISTRICT JUDGE:

Presently before the Court is Defendants' Motion for Judgment on the Pleadings. (D.I. 86). The matter has been fully briefed. (D.I. 87, 103, 106, 134, 138). The Court heard oral argument on February 27, 2015. For the reasons discussed herein, Defendants' motion is **GRANTED**.

BACKGROUND

Plaintiff Personalized Media Company filed this patent infringement action on September 23, 2013. (D.I. 1). Plaintiff alleged that Amazon.com, Inc. and Amazon Web Services LLC infringed U.S. Patent Nos. 7,769,170 ("the '170 patent"), 5,887,243 ("the '243 patent"), 7,883,252 ("the '252 patent"), 7,801,304 ("the '304 patent"), 7,827,587 ("the '587 patent"), 7,805,749 ("the '749 patent"), 8,046,791 ("the '791 patent"), 7,940,931 ("the '931 patent"), and 7,864,956 ("the '956 patent"). (*Id.*). On July 21, 2014, the parties stipulated to dismissal of the claims with respect to the '170 patent and the '931 patent. (D.I. 57).

All of the patents are entitled "Signal processing apparatus and methods." (D.I. 1 at 4-5). The patents are directed to "the use of control and information signals embedded in electronic media content to generate output for display that is personalized and relevant to a user." (*Id.* at 3).

LEGAL STANDARD

A Rule 12(c) motion for judgment on the pleadings is reviewed under the same standard as a Rule 12(b)(6) motion to dismiss when the Rule 12(c) motion alleges that the plaintiff failed to state a claim upon which relief can be granted. *See Turbe v. Gov't of the Virgin Islands*, 938 F.2d 427, 428 (3d Cir. 1991); *Revell v. Port Auth.*, 598 F.3d 128, 134 (3d Cir. 2010). The court must accept the factual allegations in the complaint and take them in the light most favorable to

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the non-moving party. *See Erickson v. Pardus*, 551 U.S. 89, 94 (2007); *Christopher v. Harbury*, 536 U.S. 403, 406 (2002). "[U]pon cross motions for judgment on the pleadings, the court must assume the truth of both parties' pleadings." 61A Am. Jur. 2d Pleading § 555; *cf. Pichler v. UNITE*, 542 F.3d 380, 386 (3d Cir. 2008) ("On cross-motions for summary judgment, the court construes facts and draws inferences 'in favor of the party against whom the motion under consideration is made.'"). "When there are well-ple[d] factual allegations, a court should assume their veracity and then determine whether they plausibly give rise to an entitlement to relief." *Ashcroft v. Iqbal*, 556 U.S. 662, 679 (2009). The court must "draw on its judicial experience and common sense" to make the determination. *See id.*

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.*, 132 S. Ct. 1289, 1293 (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.* at 1293-94 (quotation marks and emphasis omitted). The Supreme Court has made clear that "to transform an unpatentable law of nature into a patent-eligible application of

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such a law, one must do more than simply state the law of nature while adding the words 'apply it.'" *Id.* at 1294 (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); *see also Accenture Global Servs., GmbH v. Guidewire Software, Inc.*, 728 F.3d 1336, 1341 (Fed. Cir. 2013) ("[T]he court must first 'identify and define whatever fundamental concept appears wrapped up in the claim.' Then, proceeding with the preemption analysis, the balance of the claim is evaluated to determine whether 'additional substantive limitations . . . narrow, confine, or otherwise tie down the claim so that, in practical terms, it does not cover the full abstract idea itself.'" (internal citation omitted)).

Furthermore, "the prohibition against patenting abstract ideas cannot be circumvented by attempting to limit the use of the formula to a particular technological environment or adding insignificant postsolution activity." *Bilski v. Kappos*, 561 U.S. 593, 610-11 (2010) (internal quotation marks omitted). In addition, "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).

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"Whether a claim is drawn to patent-eligible subject matter under § 101 is an issue of law . . . ." *In re Bilski*, 545 F.3d 943, 951 (Fed. Cir. 2008), *aff'd sub nom. Bilski v. Kappos*, 561 U.S. 593 (2010). The Federal Circuit has held that the district court is not required to individually address claims not asserted or identified by the non-moving party, so long as the court identifies a representative claim and "all the claims are substantially similar and linked to the same abstract idea." *Content Extraction & Transmission LLC v. Wells Fargo Bank, Nat. Ass'n*, 776 F.3d 1343, 1348 (Fed. Cir. 2014) (internal quotation marks omitted). For the purpose of this motion, Plaintiff's proposed claim constructions are adopted. (D.I. 120).

ANALYSIS

A. The '243 Patent

Claim 13 is representative and reads:

> 13. A method of providing data of interest to a receiver station from a first remote data source, said data of interest for use at said receiver station in at least one of generating and outputting a receiver specific datum, said method comprising the steps of:
>
> storing said data at said first remote data source;
>
> receiving at said remote data source a query from said receiver station;
>
> transmitting at least a portion of said data from said first remote data source to said receiver station in response to said step of receiving said query, said receiver station selecting and storing said transmitted at least a portion of said data and;
>
> transmitting from a second remote source to said receiver station a signal which controls said receiver station to select and process an instruct signal which is effective at said receiver station to coordinate presentation of said at least a portion of said data with one of a mass medium program and a program segment presentation sequence.

Defendants argue that claim 13 claims the abstract idea of combining information from multiple sources. (D.I. 138 at p. 15). Defendants maintain that the method is no different than generating a vehicle advertisement for a local dealership: combining information from a national source, such as a manufacturer (the "mass medium programming") with user-specific data, such

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