

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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APPLE 1129

**TABLE OF CONTENTS**

	<b><u>Page</u></b>
TABLE OF AUTHORITIES .....	ii
I. NATURE AND STAGE OF THE PROCEEDINGS .....	1
II. SUMMARY OF ARGUMENT .....	1
III. STATEMENT OF FACTS .....	2
IV. ARGUMENT .....	3
A. The Electronic ID Device of the '813 Patent Is Patent-Eligible .....	3
1. Claim 1 Of The '813 Patent Is Not Directed To An Abstract Idea .....	4
2. Claim 1 Of The '813 Patent Provides A Technical Innovation.....	7
B. The Secure Payment and ID System of the '137 Patent Is Patent-Eligible.....	10
1. Claim 12 Of The '137 Patent Is Not Directed To An Abstract Idea .....	10
2. Claim 12 Of The '137 Patent Provides A Technical Innovation.....	12
C. The Distributed Authentication System of the '826 Patent Is Patent-Eligible .....	13
1. Claim 10 Of The '826 Patent Is Not Directed To An Abstract Idea .....	14
2. Claim 10 Of The '826 Patent Provides A Technical Innovation.....	16
D. The Secure Registry System of the '539 Patent Is Patent-Eligible .....	17
1. Claim 22 Of The '539 Patent Is Not Directed To An Abstract Idea .....	17
2. Claim 22 Of The '539 Patent Provides A Technical Innovation.....	19
E. Defendants Motion Should Be Denied For The 107 Unaddressed Claims .....	20

**TABLE OF AUTHORITIES**

**Cases**

*Accenture Global Servs., GmbH v. Guidewire Software*,  
728 F.3d 1336 (Fed. Cir. 2013)..... 18

*Affinity Labs of Texas, LLC v. DIRECTV, LLC*,  
838 F.3d 1253 (Fed. Cir. 2016)..... 18

*Alice Corp. Pty. Ltd. v. CLS Bank Int’l*,  
134 S. Ct. 2347 (2014)..... *passim*

*Bancorp Servs. v. Sun Life Assurance Co. of Can. (U.S.)*,  
687 F.3d 1266 (Fed. Cir. 2012)..... 18

*Bascom Glob. Internet Servs., Inc. v. AT&T Mobility, LLC*,  
827 F.3d 1341 (Fed. Cir. 2016)..... 8, 16

*Bilski v. Kappos*,  
561 U.S. 593 (2010)..... 1, 11, 18

*Blue Spike, LLC v. Google, Inc.*,  
2015 WL 5260506 (N.D. Cal. Sept. 8, 2015) ..... 18

*buySAFE, Inc. v. Google, Inc.*,  
765 F.3d 1350 (Fed. Cir. 2014)..... 8, 15, 18

*CallWave Commc’ns, LLC v. AT&T Mobility, LLC*,  
207 F. Supp. 3d 405 (D. Del. Sept. 15, 2016)..... 9

*CyberSource Corp. v. Retails Decisions Inc.*,  
654 F.3d 1366 (Fed. Cir. 2011)..... 18

*DDR Holdings, LLC v. Hotels.com*,  
773 F.3d 1245 (Fed. Cir. 2014)..... 10, 16

*Diamond v. Diehr*,  
450 U.S. 175 (1981)..... 7, 19

*Digitech Image Tech. v. Elect. For Imaging, Inc.*,  
758 F.3d 1344 (Fed. Cir. 2014)..... 6, 7, 9

*Enfish, LLC v. Microsoft Corp.*,  
822 F.3d 1327 (Fed. Cir. 2016)..... 4, 5, 6, 9, 18

*Gottschalk v. Benson*,  
409 U.S. 63 (1972)..... 8

*Idexx Labs., Inc. v. Charles River Labs., Inc.*,  
2016 WL 3647971 (D. Del. Jul. 1, 2016) ..... 6

*In re Bilski*,  
545 F.3d 943 (Fed. Cir. 2008)..... 8

*In Re TLI Communications*,  
823 F.3d 607 (Fed. Cir. 2016)..... 9

*Intellectual Ventures I LLC v. Capital One Bank (USA)*,  
792 F.3d 1363 (Fed. Cir. 2015)..... 8

*Internet Patents Corp. v. Active Network, Inc.*,  
790 F.3d 1343 (Fed. Cir. 2015)..... 9, 12

..

*IQS US Inc. v. Calsoft Labs Inc.*,  
 2017 WL 3581162 (N.D. Ill. Aug. 18, 2017) ..... 15

*Jericho Sys. Corp. v. Axiomatics, Inc.*,  
 2015 WL 2165931 (N.D. Tex. May 7, 2015) ..... 18

*Joao Bock Trans. Sys., LLC v. Jack Henry & Assocs., Inc.*,  
 76 F. Supp. 3d 513 (D. Del. 2014)..... 15, 18

*JSDQ Mesh Techs. LLC v. Fluidmesh Networks, LLC*,  
 2016 WL 4639140 (D. Del. Sept. 6, 2016)..... 20

*King Pharms., Inc. v. Eon Labs, Inc.*,  
 616 F.3d 1267 (Fed. Cir. 2010)..... 7

*MAZ Encryption Technologies LLC v. Blackberry Corp.*,  
 2016 WL 5661981 (D. Del. Sept. 29, 2016)..... 5, 7, 11, 17

*McRO, Inc. v. Bandai Namco Games Am. Inc.*,  
 837 F.3d 1299 (Fed. Cir. 2016)..... 5, 10, 11, 12

*Messaging Gateway Solutions LLC v. Amdocs, Inc.*,  
 2015 WL 1744343 (D. Del. April 5, 2015)..... 6

*Mortgage Grader, Inc. v. First Choice Loan Servs. Inc.*,  
 811 F.3d 1314 (Fed. Cir. 2016)..... 8

*OIP Techs., Inc. v. Amazon.com, Inc.*,  
 788 F.3d 1359 (Fed. Cir. 2015)..... 8

*PalTalk Holdings, Inc. v. Riot Games, Inc.*,  
 2017 WL 2106124 (D. Del. May 15, 2017)..... 18

*Parker v. Flook*,  
 437 U.S. 584 (1978)..... 8

*Research Corp. Techs., Inc. v. Microsoft Corp.*,  
 627 F.3d 859 (Fed. Cir. 2010)..... 4

*Smart Meter Techs., Inc. v. Duke Energy Corp.*,  
 2017 WL 2954916 (D. Del. July 11, 2017) ..... 18, 19

*Sonos, Inc. v. D&M Holdings Inc.*,  
 2017 WL 971700 (D. Del. March 13, 2017)..... 12

*Triplay, Inc. v. WhatsApp Inc.*,  
 2015 WL 1927696 (D. Del. Apr. 28, 2015)..... 20

*Ultramercial, Inc. v. Hulu, LLC*,  
 772 F.3d 709 (Fed. Cir. 2014)..... 8

*Vehicle IP, LLC v. AT&T Mobility LLC*,  
 2016 WL 5662004 (D. Del. Sept. 29, 2016)..... 9, 11

*Versata Development Group v. SAP America, Inc.*,  
 793 F.3d 1306 (Fed. Cir. 2015)..... 8

*Versata Software v. NetBrain Techs.*,  
 2015 WL 5768938 (D. Del. Sept. 30, 2015)..... 20

*Walker Digital, LLC v. Google, Inc.*,  
 66 F. Supp. 3d 501 (D. Del. 2014)..... 11, 12

...

## 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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