

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

LUMINATI NETWORKS LTD.

Plaintiff,

v.

TESO LT, UAB; OXYSALES, UAB;  
META CLUSTER LT, UAB;

Defendants.

Case No. 2:19-cv-395-JRG

**LUMINATI'S OPPOSITION TO DEFENDANTS' MOTION TO DISMISS**

**TABLE OF CONTENTS**

**I. INTRODUCTION ..... 1**

**II. STATEMENT OF THE ISSUES ..... 1**

**III. FACTUAL AND PROCEDURAL BACKGROUND..... 2**

A. Technical Background of Asserted Patents..... 2

B. Procedural History..... 8

**IV. LUMINATI’S ASSERTED PATENT CLAIMS ARE VALID UNDER 101..... 8**

A. Legal Standard..... 8

1. Step One: The Asserted Patents Are Not “Directed To” An Abstract Idea or Law of Nature ..... 10

2. Step Two: The Asserted Claims Recite Inventive Concepts..... 11

B. Defendants misconstrue patent terms to overgeneralize the claims and make them seem more abstract than they are..... 12

C. The Asserted Patents Satisfy Alice Step One. They Are Directed Toward an Entirely New Network Based on an Innovative Server-Client Device-Web Server Architecture ..... 14

1. ‘319 Patent Claims ..... 14

2. ‘510 Patent Claims ..... 15

3. ‘614 Patent Claims ..... 16

4. Defendants’ argument that the claims use “routine and ordinary devices and servers ... in a routine and ordinary way” is incorrect and a misapplication of the law ..... 17

5. Defendants’ cited cases are distinguishable ..... 19

D. The Asserted Patents Meet *Alice* Step Two By Reciting Inventive Concepts ..... 23

1. The Asserted Patents recite inventive concepts and improvements..... 23

2. Under Alice step two, the question of whether the claims are conventional is a question of fact not amenable to dismissal or summary judgment..... 25

**V. LUMINATI’S NON-PATENT CLAIMS SHOULD NOT BE DISMISSED UNDER 12(B)(6), BECAUSE LUMINATI PROPERLY PROVIDED NOTICE OF FACIALLY PLAUSIBLE CLAIMS ..... 26**

A. Legal Standard..... 26

B. Plaintiff Properly Pled Misappropriation of Trade Secrets..... 26

C. Plaintiff Properly Pled Intentional Unauthorized Access of a Protected Computer ..... 27

D. Plaintiff Properly Pled False Advertising Under the Lanham Act..... 28

E. Plaintiff Properly Pled Tortious Interference with Business Relations..... 30

**VI. CONCLUSION ..... 30**

**TABLE OF AUTHORITIES**

**Cases**

*Aatrix Software, Inc. v. Green Shades Software, Inc.*, 882 F.3d 1121 (Fed. Cir. 2018).. 12, 21, 23, 25

*Alice Corp. Pty. Ltd. v. CLS Bank Int’l*, 134 S. Ct. 2347 (2014)..... 9, 10, 11

*Amdocs Isr. Ltd. v. Openet Telecom, Inc.*, 841 F.3d 1288 (Fed. Cir. 2016)..... 11, 21, 22, 25

*Atticus Research Corp. v. Mmsoft Design*, 2018 U.S. Dist. LEXIS 228681 (S.D. Tex. Sept. 6, 2018)..... 24

*Bancorp Servs. L.L.C v. Sun Life Assurance Co. of Canada*, 687 F.3d 1266 (Fed. Cir. 2012).... 12

*BASCOM Glob. Internet Servs., Inc. v. AT&T Mobility LLC*, 827 F.3d 1341 (Fed. Cir. 2016)... 21

*Bell Atl. Corp. v. Twombly*, 550 U.S. 544 (2007)..... 26

*Berkheimer v. HP Inc.*, 881 F.3d 1360 (Fed. Cir. 2018)..... 10, 12, 25

*Butowsky v. Folkenflik*, Civil Action No. 4:18CV442, 2019 U.S. Dist. LEXIS 104297 (E.D. Tex. Apr. 17, 2019) ..... 29

*buySAFE, Inc. v. Google, Inc.*, 765 F.3d 1350 (Fed. Cir. 2014)..... 22, 24

*Content Extraction & Transmission LLC v. Wells Fargo Bank, Nat’l Ass’n*, 776 F.3d 1343 (Fed. Cir. 2014) ..... 10

*Core Wireless Licensing S.A.R.L. v. LG Elecs., Inc.*, 880 F.3d 1356 (Fed. Cir. 2018) ..... 21

*CXT Sys. v. Acad., Ltd.*, No. 2:18-CV-00171-RWS-RSP, 2019 U.S. Dist. LEXIS 51992 (E.D. Tex. Mar. 27, 2019)..... 25

*DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245 (Fed. Cir. 2014) ..... 20

*Diamond v. Diehr*, 450 U.S. 175 (1981)..... 10, 20, 23

*Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350 (Fed. Cir. 2016) ..... 21, 24

*Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327 (Fed. Cir. 2016)..... 18, 20

*Finjan, Inc. v. Blue Coat Sys., Inc.*, 879 F.3d 1299 (Fed. Cir. 2018) ..... 21

*Freeny v. Fossil Grp., Inc.*, 2019 U.S. Dist. LEXIS 36688 (E.D. Tex., Feb. 12, 2019)..... 21

*Frisco Med. Ctr., LLP. Bledsoe*, 147 F. Supp. 3d 646 (E.D. Tex. 2015) ..... 27, 28

*In re Katrina Canal Breaches Litig.*, 495 F.3d 191 (5th Cir. 2007) ..... 26

*Intellectual Ventures I LLC v. Capital One Bank*, 792 F.3d 1363 (Fed. Cir. 2015)..... 22

*Intellectual Ventures I LLC v. Symantec Corp.*, 100 F. Supp. 3d 371 (D. Del. 2015)..... 22

*Intellectual Ventures II LLC v. BITCO Gen. Ins. Corp.*, 362 F. Supp. 3d 370 (E.D. Tex. Jan. 24, 2019)..... 22

*Interval Licensing LLC v. AOL, Inc.*, 896 F.3d 1335 (Fed. Cir. 2018)..... 22, 24

*Kazee, Inc. v. Callender*, No. 4:19-CV-31-SDJ, 2020 U.S. Dist. LEXIS 36105 (E.D. Tex, March 2, 2020)..... 26

*Lifetime Indus., Inc. v. Trim-Lok, Inc.*, 869 F.3d 1372 (Fed. Cir. 2017) ..... 26

*Lormand v. US Unwired, Inc.*, 565 F.3d 228 (5th Cir. 2009)..... 26

*Mayo Collaborative Services v. Prometheus Laboratories, Inc.*, 566 U.S. 66 (2012) ..... 11

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

*Milkovich v. Lorain Journal Co.*, 497 U.S. 1 (1990)..... 29

*Mortg. Grader, Inc. v. First Choice Loan Servs., Inc.* 811 F.3d 1314 (Fed. Cir. 2016)..... 23

*MyMail, Ltd. v. ooVoo, LLC*, 934 F.3d 1373 (Fed. Cir. 2019)..... 8, 12

*NobelBiz, Inc. v. InsideSales.com, Inc.*, No. 6:13-cv-360, Dkt. 32 (E.D. Tex. Oct. 14, 2014)..... 26

*Parus Holdings, Inc. v. Sallie Mae Bank*, 137 F. Supp. 3d 660 (N.D. Cal. 2015)..... 21

*Pizza Hut Inc. v. Papa John’s Int’l Inc.*, 227 F.3d 489 (5<sup>th</sup> Cir. 2000) ..... 28

*Rapid Litig. Mgmt. Ltd. v. CellzDirect, Inc.*, 827 F.3d 1042 (Fed. Cir. 2016) ..... 20

*Reese v. Sprint Nextel Corp.*, 774 Fed. App’x 656 (Fed. Cir. 2019) ..... 21

*SAP Am., Inc. v. InvestPic, LLC*, 898 F.3d 1161 (Fed. Cir. 2018) ..... 20

*Specialized Monitoring Sols., LLC v. ADT LLC*, 367 F. Supp. 3d 575 (E.D. Tex. 2019) ..... 20

*Staton Holdings, Inc. v. Russell Ath., Inc.*, Civil Action No. 3:09-CV-0419-D, 2009 U.S. Dist. LEXIS 108603 (N.D. Tex. Nov. 20, 2009)..... 30

<i>Test Masters Educ. Servs., Inc. v. Singh</i> , 428 F.3d 559 (5th Cir. 2005).....	26
<i>Thales Visionx, Inc. v. United States</i> , 850 F.3d 1343 (Fed. Cir. 2017).....	10, 20
<i>Tinnus Enters., LLC v. Telebrands Corp.</i> , No. 6:17-CV-00170-RWS, 2018 U.S. Dist. LEXIS 79068 (E.D. Tex. Mar. 9, 2018).....	28
<i>TLI Communs. LLC v. AV Auto., L.L.C. (In re TLI Communs. LLC Patent Litig.)</i> , 823 F.3d 607 (Fed. Cir. 2016).....	13, 19
<i>Trading Techs. Int’l, Inc. v. CQG, Inc.</i> , 675 Fed. App’x. 1001 (Fed. Cir. 2017).....	11
<i>Transmission LLC v. Wells Fargo Bank, Nat’l Ass’n</i> , 776 F.3d 1343 (Fed. Cir. 2014).....	22
<i>Uniloc United States, Inc. v. Samsung Elecs. Am., Inc.</i> , No. 2:17-CV-00651-JRG, 2018 U.S. Dist. LEXIS 176336 (E.D. Tex. Sep. 18, 2018).....	9
<i>Visual Memory LLC v. NVIDIA Corp.</i> , 867 F.3d 1253 (Fed. Cir. 2017).....	21
<i>Voip-Pal.com, Inc. v. Apple Inc.</i> , 411 F. Supp. 3d 926 (N.D. Cal. 2019).....	20
<i>Windy City Innovations, LLC v. Facebook, Inc.</i> , 411 F. Supp. 3d 886 (N.D. Cal 2019).....	22
<b><u>Statutes</u></b>	
18 U.S.C. § 1030(e)(11).....	28

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.