

Text Order DENYING 17 Motion to Dismiss entered by Judge Alan D Albright. In light of the Court's order in Slyce Acquisition Inc. v. Syte Visual Conception Ltd., No. 6:19-cv-257-ADA, 2020 WL 278481 (W.D. Tex. Jan. 10, 2020), the Court does not believe this is one of the rare cases where it is appropriate to resolve the Section 101 eligibility of the patents-in-suit as a Rule 12(b) motion to dismiss. It is therefore ORDERED that Defendants' motion is denied WITHOUT PREJUDICE. Defendants may refile their motion after the opening of fact discovery. Should Defendants elect to refile their motion at that time, the Court orders Defendants to brief the patent ineligibility of each asserted claim, i.e., not just representative claims. The Court will grant any reasonable request to extend the page limits for such a motion. To be clear, the Court takes no position on whether claim construction is necessary for any of the asserted claims. See MyMail, Ltd. v. ooVoo, LLC, 934 F.3d 1373, 1379 (Fed. Cir. 2019). Furthermore, the Court takes no position on whether there are any factual disputes that preclude dismissal at the pleadings stage. See Aatrix Software, Inc. v. Green Shades Software, Inc., 882 F.3d 1121, 1128-30 (Fed. Cir. 2018). (This is a text-only entry generated by the court. There is no document associated with this entry.) (jy) (Entered: 07/25/2020)

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Broadband iTV, Inc. v. DISH Network LLC
6-19-cv-00716 (WDTX), 7/25/2020, docket entry