

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

CONTENTGUARD HOLDINGS, INC.,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Case No. 2:13-CV-1112-JRG
	§	
AMAZON.COM, INC., et al.,	§	
	§	
Defendants.	§	
	§	
CONTENT GUARD HOLDINGS, INC.,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Case No. 2:14-CV-61-JRG
	§	
GOOGLE, INC.,	§	
	§	
Defendant.	§	

MEMORANDUM OPINION AND ORDER

Before the Court is the Joint Renewed Motion for Judgment on the Pleadings Declaring All Asserted Patent Claims Invalid Pursuant to 35 U.S.C. § 101 (Dkt. No. 539 in the -1112 case; Dkt. No. 191 in the -61 case) (“Mot.”) filed by Defendants Motorola Mobility, LLC, Amazon.com, Inc., Apple Inc., Google, Inc., Huawei Technologies Co., Ltd., Huawei Device USA, Inc., HTC Corp., HTC America, Inc., Samsung Electronics Co., Ltd., Samsung Electronics America, Inc., and Samsung Telecommunications America, LLC (collectively, “Defendants”). Plaintiff ContentGuard Holdings, Inc. (“ContentGuard”) filed a Response in Opposition to the Motion (Dkt. No. 597 in the -1112 case) (“Resp.”). Previously, the Court entered an order denying the Motion and expressly reserving the right to supplement that order with more detailed

analysis. (Dkt. No. 826 in the -1112 case; Dkt. No. 299 in the -61 case.) This Order supersedes and replaces that prior Order. For the reasons stated below, the motion is **DENIED**.

I. Background

On December 18, 2013, ContentGuard filed suit against Amazon, Apple, Blackberry, Huawei, and Motorola Mobility asserting claims of patent infringement of the patents in this suit. (Dkt. No. 1 in the -1112 case.) On January 17, 2014, ContentGuard filed an amended complaint also bringing suit on the same patents against HTC and Samsung. (Dkt. No. 22 in the -1112 case.)

Defendants Motorola and Amazon each separately filed motions requesting dismissal pursuant to 35 U.S.C. § 101. (Dkt. Nos. 298 and 390 in the -1112 case). The Court held a Markman hearing on February 6, 2015, and issued a 144-page Claim Construction Order (Dkt. No. 459 in the -1112 case) (“Claim Construction Order”) on March 20, 2015. On April 9, 2015, the Court denied Defendants’ pending § 101 motions without prejudice to re-filing, and directed that the parties re-brief the issue in accordance with the Court’s Claim Construction Order. (Dkt. No. 482 in the -1112 case.) On April 24, 2015, Defendants filed this Joint Motion to Dismiss on the Pleadings Under Federal Rule of Civil Procedure (“F.R.C.P.”) 12(c) re-raising the § 101 issue. (Mot.) Since both Defendants and Plaintiff submitted evidence outside the scope of what can properly be considered under F.R.C.P. 12(c)¹, pursuant to Rule 12(d), the Court converted the motion to a motion for summary judgment under F.R.C.P. 56. (Dkt. No. 669 in the -1112 case.) The Court heard oral argument from the parties on July 29, 2015.

ContentGuard has asserted the following twenty claims from six related patents issued to Mark Stefik: Claims 1, 3, 6, 8, 11, and 13 from U.S. Patent No. 8,393,007 (“the ’007 patent”); Claims 1, 7, and 13 from U.S. Patent No. 8,370,956 (“the ’956 patent”); Claims 1 and 8 from

¹ See, e.g., (Mot., Ex. 3, Dkt. No. 539-3 in the -1112 case; Resp., Ex. 6, Dkt. No. 597-6 in the -1112 case.)

U.S. Patent No. 7,523,072 (“the ’072 patent”); Claims 18, 21, and 34 from U.S. Patent No. 7,269,576 (“the ’576 patent”); and Claims 1, 21, and 58 from U.S. Patent No. 6,963,859 (“the ’859 patent”) (collectively, the “Stefik Patents”). ContentGuard has also asserted the following five claims from two related patents issued to Mai Nguyen: Claims 1 and 5 of U.S. Patent No. 7,774,280 (“the ’280 patent”); and Claims 1, 3, and 5 from U.S. Patent No. 8,001,053 (“the ’053 patent”) (collectively, the “Nguyen Patents”).

At a high level, the Stefik Patents are generally directed toward systems and methods for controlling the use and distribution of digital works in accordance with “usage rights” through the use of “trusted” systems. *See* claim 1 of the ’007 Patent (“sending the digital content . . . to the at least one recipient computing device only if the at least one recipient device has been determined to be trusted”). The Court construed “trusted” to require that three types of “integrities”—physical, communication, and behavioral—be maintained. *See* (Claim Construction Order at 15.) Similarly, the Nguyen Patents are generally directed toward systems and methods for controlling the use and distribution of digital works in accordance with “usage rights”—and more particularly, “meta-rights”—through the use of “trusted” systems. The claim language of the ’007 Patent is informative in this regard:

For example, Claim 1 of the ’007 Patent recites:

1. A computer-implemented method of distributing digital content to at least one recipient computing device to be rendered by the at least one recipient computing device in accordance with usage rights information, the method comprising:

determining, by at least one sending computing device, if the at least one recipient computing device is trusted to receive the digital content from the at least one sending computing device;

sending the digital content, by the at least one sending computing device, to the at least one recipient computing device only if the at least one recipient computing device has been determined to be trusted to receive the digital content from the at least one sending computing device; and

sending usage rights information indicating how the digital content may be rendered by the at least one recipient computing device, the usage rights information being enforceable by the at least on recipient computing device.

Defendants contend that the claims are directed to patent-ineligible subject matter and therefore are invalid under 35 U.S.C. § 101. Specifically, Defendants argue that the Stefik Patents address nothing more than the “abstract idea of enforcing usage rights and restrictions on digital content.” (Mot. at 8.) Similarly, Defendants argue that the Nguyen Patents address nothing more than the “abstract idea of enforcing sublicensing rights and restrictions (which the patents name ‘meta-rights’) on digital content.” (*Id.* at 28.)

II. LEGAL STANDARD

A. Summary Judgment Under Rule 56

Federal Rule of Civil Procedure 56(c) authorizes a Court to grant summary judgment where “there is no genuine issue as to any material fact and . . . the moving party is entitled to a judgment as a matter of law.” A party moving for summary judgment must satisfy its initial burden by showing that “there is an absence of evidence to support the nonmoving party’s case.” *Celotex Corp. v. Catrett*, 477 U.S. 317, 323–25 (1986).

B. Patent Eligibility Under 35 U.S.C. § 101

Section 101 of the Patent Act defines what is eligible for patent protection. It says: “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 held that there are three specific exceptions to patent eligibility under § 101: laws of nature, natural phenomena, and abstract ideas. *Bilski v. Kappos*, 561 U.S. 593, 601 (2010). In *Mayo*, the Supreme Court articulated a two-step test for “distinguishing patents that claim laws of nature, natural phenomena, and abstract ideas from those that claim patent eligible applications of those concepts.” *Alice Corp. Pty. Ltd. v. CLS Bank Int’l*, 134 S. Ct. 2347, 2355 (2014) (citing *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 132 S. Ct. 1289, 1296–97 (2012)).

The first step of *Mayo* requires a court to determine if the claims are directed to a law of nature, natural phenomenon, or abstract idea. *Alice*, 134 S. Ct. at 2355. “If not, the claims pass muster under § 101.” *Ultramercial, Inc. v. Hulu, LLC*, 772 F.3d 709, 714 (Fed. Cir. 2014). In making this determination, the court looks at what the claims cover. *Ultramercial*, 772 F.3d at 714–15 (“We first examine the claims because claims are the definition of what a patent is intended to cover.”); *Intellectual Ventures I LLC v. Capital One Bank (USA)*, 792 F.3d 1363, 1369 (Fed. Cir. 2015) (“At step one of the *Alice* framework, it is often useful to determine the breadth of the claims in order to determine whether the claims extend to cover a ‘fundamental . . . practice long prevalent in our system’”).

For example, in *Bilski*, the Supreme Court rejected as a patent-ineligible “Claims 1 and 4 in petitioners’ application” because the claims simply “explain[ed] the basic concept of hedging, or protecting against risk.” *Bilski*, 561 U.S. at 611. Similarly, in *Ultramercial*, the Federal Circuit rejected as patent-ineligible a claim that included “eleven steps for displaying an advertisement in exchange for access to copyrighted media.” *Ultramercial*, 772 F.3d at 714. In *Intellectual Ventures*, the Federal Circuit rejected as patent-ineligible a claim that contained steps

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