

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
WACO DIVISION**

VOIP-PAL.COM, INC.,

Plaintiff,

v.

AMAZON.COM, INC.;
AMAZON.COM SERVICES, LLC; and
AMAZON.COM WEB SERVICES, INC.;

Defendants.

Case No. 6:20-CV-0272-JD

**PLAINTIFF VOIP-PAL.COM, INC.'S
OPPOSITION TO AMAZON'S OPPOSED
MOTION FOR JUDGMENT ON THE
PLEADINGS**

TABLE OF CONTENTS

I. INTRODUCTION1

II. LEGAL STANDARD.....1

III. ARGUMENT3

 A. Defendants Fail To Establish Claim 1 As Representative. 3

 B. VoIP-Pal Is Not Collaterally Estopped From Challenging Ineligibility. 6

 C. Claim 1 Is Not Directed To An Abstract Idea..... 9

 1. The allegedly functional terms in Claim 1 do not render it abstract.9

 2. Claim 1 is not analogous to preexisting call routing practices.....11

 3. Claim 1 does not use known technology to perform routine functions.12

 D. Claim 1 Recites An Inventive Concept..... 13

 1. The individual claim elements recite an inventive concept.13

 2. The ordered combination provides an inventive concept.....14

 E. The Court Should Not Decide Patent Eligibility On An Undeveloped Record..... 16

 F. The Court Should Grant VoIP-Pal Leave To Amend..... 17

IV. CONCLUSION.....18

TABLE OF AUTHORITIES**Cases**

<i>Aatrix Software, Inc. v. Green Shades Software, Inc.</i> , 882 F.3d 1121 (Fed. Cir. 2018).....	2, 3, 15, 17
<i>Alice Corp. Pty. Ltd. v. CLS Bank Int’l</i> , 134 S. Ct. 2347 (2014).....	2, 13
<i>AML IP, LLC v. Bed Bath & Beyond, Inc.</i> , No. 6:21-CV-00600-ADA, 2022 U.S. Dist. LEXIS 66678 (W.D. Tex. Apr. 11, 2022).....	3, 6, 7, 16
<i>Athena Diagnostics, Inc. v. Mayo Collaborative Servs., LLC</i> , 915 F.3d 743 (Fed. Cir. 2019).....	13
<i>Avocent Huntsville, LLC v. ZPE Sys.</i> , Case No. 3:17-cv-04319-WHO, 2018 U.S. Dist. LEXIS 47655 (N.D. Cal. Mar. 21, 2018).....	9
<i>Berkheimer v. HP Inc.</i> , 881 F.3d 1360 (Fed. Cir. 2018).....	2, 7
<i>Bowlby v. City of Aberdeen</i> , 681 F.3d 215 (5th Cir. 2012).....	1
<i>BroadSoft, Inc. v. CallWave Communs., LLC</i> , 282 F. Supp. 3d 771 (D. Del. 2017).....	13
<i>Card Verification Solutions, LLC v. Citigroup Inc.</i> , 13 C 6339, 2014 U.S. Dist. LEXIS 137577 (N.D. Ill. Sept. 29, 2014).....	3
<i>Cellspin Soft, Inc. v. Fitbit, Inc.</i> , 927 F.3d 1306 (Fed. Cir. 2019).....	2, 3, 14
<i>CLS Bank Int’l v. Alice Corp. Pty.</i> , 717 F.3d 1269 (Fed. Cir. 2013).....	3
<i>Coop. Entm’t, Inc. v. Kollektive Tech., Inc.</i> , 50 F.4th 127 (Fed. Cir. 2022).....	2
<i>DealerTrack, Inc. v. Huber</i> , 674 F.3d 1315 (Fed. Cir. 2012).....	2
<i>e.Digital Corp. v. Futurewei Tech., Inc.</i> , 772 F.3d 723 (Fed. Cir. 2014).....	8
<i>Enfish, LLC v. Microsoft Corp.</i> , 822 F.3d 1327 (Fed. Cir. 2016).....	12, 13
<i>Finjan, Inc. v. Blue Coat Sys.</i> , 879 F.3d 1299 (Fed. Cir. 2018).....	9, 10
<i>Geinosky v. City of Chi.</i> , 675 F.3d 743 (7th Cir. 2012).....	18
<i>Grecia Estate Holdings LLC v. Meta Platforms, Inc.</i> , 605 F. Supp. 3d 905 (W.D. Tex. 2022).....	6, 7, 8

<i>Herrera v. Zumiez, Inc.</i> , 953 F.3d 1063 (9th Cir. 2020).....	1
<i>Koninklijke KPN N.V. v. Gemalto M2M GmbH</i> , 942 F.3d 1143 (Fed. Cir. 2019)	9, 10
<i>Mayo Collaborative Servs. v. Prometheus Labs., Inc.</i> , 132 S. Ct. 1289 (2012).....	2
<i>McRO, Inc. v. Bandai Namco Games Am. Inc.</i> , 837 F.3d 1299 (Fed. Cir. 2016).....	12, 13, 14
<i>Microsoft Corp. v. i4i Ltd. Partnership</i> , 131 S. Ct. 2238 (2011).....	3
<i>Nat. Alts. Int’l, Inc. v. Creative Compounds, LLC</i> , 918 F.3d 1338 (Fed. Cir. 2019).....	2
<i>Nice Ltd. v. CallMiner, Inc.</i> , No. 18-2024-RGA-SRF, 2020 U.S. Dist. LEXIS 20516 (D. Del. Feb. 3, 2020)	6
<i>Ohio Willow Wood Co. v. Alps S., LLC</i> , 735 F.3d 1333 (Fed. Cir. 2013)	6
<i>Ortho Pharm. Corp. v. Smith</i> , 959 F.2d 936 (Fed. Cir. 1992).....	4
<i>PPS Data, LLC v. Jack Henry & Assocs.</i> , 404 F. Supp. 3d 1021 (E.D. Tex. 2019).....	4, 6
<i>Pragmatus Telecom, LLC v. Genesys Telecomms. Labs., Inc.</i> , 114 F. Supp. 3d 192 (D. Del. 2015).....	4
<i>Prompt Med. Sys., L.P. v. Allscripts Healthcare Solutions, Inc.</i> , 6:10-cv-71, 2012 U.S. Dist. LEXIS 30694 (E.D. Tex. Feb. 13, 2012)	9
<i>Research Corp. Techs. v. Microsoft Corp.</i> , 627 F.3d 859 (Fed. Cir. 2010).....	2
<i>Seven Networks, LLC v. Motorola Mobility LLC</i> , Civil Action No. 3:21-CV-01036-N, 2022 U.S. Dist. LEXIS 24709 (N.D. Tex. Feb. 10, 2022).....	8
<i>SimpleAir, Inc. v. Google LLC</i> , 884 F.3d 1160 (Fed. Cir. 2018).....	8
<i>Slyce Acquisition v. Syte - Visual Conception</i> , No. W-19-CV-00257-ADA, 2020 U.S. Dist. LEXIS 9451 (W.D. Tex. Jan. 10, 2020).....	passim
<i>Smiledirectclub v. Candid Care Co.</i> , No. 6:20-CV-01115-ADA, 2021 U.S. Dist. LEXIS 154206 (W.D. Tex. July 1, 2021)	8
<i>Stormborn Techs., LLC v. Topcon Positioning Sys.</i> , 444 F. Supp. 3d 1119 (N.D. Cal. 2020).....	9

Townsend v. Univ. of Alaska, 543 F.3d 478 (9th Cir. 2008)..... 17

Two-Way Media Ltd v. Comcast Cable Communs., LLC, 874 F.3d 1329 (Fed. Cir. 2017) 14

Ultramercial, Inc. v. Hulu, LLC, 772 F.3d 709 (Fed. Cir. 2014)..... 2

Univ. of Fla. Research Found., Inc. v. GE Co., 916 F.3d 1363 (Fed. Cir. 2019)..... 3

Vineyard Investigations v. E. & J. Gallo Winery, 510 F. Supp. 3d 926 (E.D. Cal. 2020)..... 4

Visual Memory LLC v. NVIDIA Corp., 867 F.3d 1253 (Fed. Cir. 2017)..... 17

VoIP-Pal.com, Inc. v. Apple Inc., 411 F. Supp. 3d 926 (N.D. Cal. 2019) passim

VoIP-Pal.com, Inc. v. Apple, Inc., 375 F. Supp. 3d 1110 (N.D. Cal. 2019)..... 11

Statutes

35 U.S.C. §101..... 1

35 U.S.C. §282..... 3

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.