

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION

PARKERVISION, INC.,

Plaintiff,

v.

REALTEK SEMICONDUCTOR CORP.,

Defendants.

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NO. 6:22-cv-01162-ADA

**DEFENDANT'S REPLY IN SUPPORT OF  
MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM**

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ParkerVision’s Amended Complaint fails to allege facts that would give rise to any infringement claim against Realtek. In its Opposition, ParkerVision avoids addressing the clear law that renders its complaint defective, and resorts instead to insisting that its own conclusory speculations are “facts.” What’s left is a broadside criticism of Realtek for properly asserting its right to service. The Amended Complaint should be dismissed.

As a threshold matter, ParkerVision cannot overcome the fatal defect that half of the identified claims are method claims, and black letter law precludes method claims from being directly infringed through the sale or offer for sale of an apparatus. *Ormco Corp. v. Align Technology, Inc.*, 463 F.3d 1299, 1311 (Fed. Cir. 2006). For the remaining claims, with no factual allegation plausibly indicating an infringing sale or offer for sale somewhere in the U.S., the complaint fails to state a claim for direct infringement pursuant to *Twombly and Iqbal*.

There is also no indirect infringement because ParkerVision cannot allege Realtek had knowledge of the patents. Mot. at 10-11. ParkerVision confirms this defect, stating it is not alleging indirect infringement “at this time.” Opp. at 1. With this conceded, the allegation that “Realtek distributors” may “sell, offer to sell, and/or import infringing products *on behalf of* Realtek in the U.S.” (*id.*) is a red herring of no importance.

As to the accused chip, ParkerVision concedes its Amended Complaint is just as deficient as the original. ParkerVision provides a new schematic from an unspecified source, but it was *omitted from* the Amended Complaint. Opp. at 13. This late addition does not save the case from dismissal. *Belknap v. Leon Cnty.*, 2023 WL 3604728 (W.D. Tex. Apr. 3, 2023) (It is “inappropriate at the pleading stage . . . [to] ask[] this Court to look beyond the ‘four corners of Plaintiffs’ Complaint.’”). Nor would the new schematic cure the defective complaint because there remains no factual basis to allege the accused chip practices the purported point of novelty to plausibly plead a cause of action. *Vervain, LLC v. Micron Tech., Inc.*, No. 6:21-cv-00487-ADA, 2022 WL 23469, at \*5 (W.D. Tex. Jan. 3, 2022) (“[A] complaint nakedly

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