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11 UNITED STATES DISTRICT COURT
12 SOUTHERN DISTRICT OF CALIFORNIA
13 SAN DIEGO DIVISION

14 Samesurf, Inc.,

15 Plaintiff,

16 v.

17 Intuit Inc.,

18 Defendant.

Case No.: 3:22-cv-00412-LL-KSC

**DEFENDANT INTUIT INC.'S
NOTICE OF MOTION AND
MOTION TO DISMISS
PURSUANT TO RULE 12(b)(6)**

Hearing Date: June 27, 2022

**PER CHAMBERS RULES, NO
ORAL ARGUMENT UNLESS
SEPARATELY ORDERED BY
THE COURT**

Judge: Hon. Linda Lopez
Courtroom: 2B

INTUIT'S NOTICE OF MOTION AND MOTION TO DISMISS

Case No.: 3:22-cv-00412-LL-KSC

1 **TO THE HONORABLE COURT, AND TO PLAINTIFF AND ITS**
 2 **COUNSEL OF RECORD:**

3 **PLEASE TAKE NOTICE** that on June 27, 2022, in Courtroom 2B of the
 4 above-entitled Court located at 333 West Broadway, San Diego, California 92101,
 5 defendant Intuit Inc. will and hereby does move the Court to dismiss the above-
 6 captioned action (“Action”) pursuant to Federal Rule of Civil Procedure 12(b)(6) for
 7 failure to state a claim.

8 As grounds for its motion, Intuit contends that the asserted patents, U.S. Patent
 9 Nos. 9,483,448, 9,185,145, and 8,527,591, claim patent-ineligible subject matter
 10 pursuant to 35 U.S.C. § 101, and are therefore invalid. Accordingly, plaintiff
 11 Samesurf, Inc. has failed to allege infringement of a valid, patentable claim.

12 Pursuant to the Court’s Civil Chamber Rule 3.A., Intuit certifies this motion is
 13 made following the conference of counsel that took place on May 16, 2022.

14 This motion is based upon this notice, the accompanying memorandum of
 15 points and authorities, all pleadings, papers, and records on file in this Action, and
 16 such other oral argument as may be presented at or before the time of adjudication of
 17 this motion.

18 Dated: May 23, 2022

Respectfully submitted,

19

FENWICK & WEST LLP

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21 By: /s/ Michael J. Sacksteder
 Michael J. Sacksteder

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23 Attorneys for Defendant
 24 INTUIT INC.

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) Case No.: 3:22-cv-00412-LL-KSC

) **DEFENDANT INTUIT INC.'S**
) **MEMORANDUM OF POINTS**
) **AND AUTHORITIES IN**
) **SUPPORT OF MOTION TO**
) **DISMISS PURSUANT TO FED. R.**
) **CIV. P. 12(B)(6)**

) Hearing Date: June 27, 2022

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INTUIT'S MOTION TO DISMISS

Case No.: 3:22-cv-00412-LL-KSC

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I. INTRODUCTION

For generations, business professionals, educators, and students have worked collaboratively on the same materials, for example, by gathering around an overhead projector or document camera while taking turns making suggested revisions. The claims of the three patents asserted in this suit do nothing more than implement this abstract method of organizing human activity, using only conventional, generic computers and networks developed by others. Specifically, the claims purport to cover an interactive web browsing experience and the simultaneous sharing of information over the Internet.

Such abstract claims are routinely held not to be patent-eligible. Indeed, courts have held that patents claiming interactive web browsing and simultaneous screen sharing—the purported technology at issue here—are invalid for failure to claim patentable subject matter. And the Supreme Court and Federal Circuit hold that the mere use of computers, conventional devices, and the Internet as tools to carry out or assist human activity does not satisfy the requirement for patent-eligible subject matter under 35 U.S.C. § 101. Accordingly, like the many patents covering methods of organizing human activity that came before them, the asserted patents are invalid under 35 U.S.C. § 101.

Defendant Intuit Inc. respectfully requests the Court to dismiss Plaintiff Samesurf, Inc.’s complaint with prejudice under Rule 12(b)(6) of the Federal Rules of Civil Procedure for failure to allege infringement of a patentable claim.

II. FACTUAL BACKGROUND

Samesurf filed its complaint on March 29, 2022. *See* Compl. (Dkt. 1). Samesurf alleges Intuit infringes claims 1-4, 6-8, 11-14, and 16 of U.S. Patent No. 9,483,448 (the “’448 patent”), claims 1-5, 7-14, and 16-17 of U.S. Patent No. 9,185,145 (the “’145 patent”), and claims 1-6, 10-12, and 14-16 of U.S. Patent No. 8,527,591 (the “’591 patent”) (collectively, the “Asserted Patents”) (’448 patent claims 1-4, 6-8, 11-14, and 16, ’145 patent claims 1-5, 7-14, and 16-17, and ’591

1 patent claims 1-6, 10-12, and 14-16, are collectively referred to as the “Asserted
 2 Claims”). Compl. ¶ 49; *see id.* ¶¶ 113, 153, 189. Samesurf accuses Intuit’s
 3 “TurboTax Online, QuickBooks Online, TurboTax Live, QuickBooks Live,
 4 Smartlook, and other co-browse enabled Intuit products and/or online experiences,”
 5 “as well as the underlying infrastructure supporting these products,” of infringement.
 6 *Id.* ¶ 49; *see, e.g., id.* ¶¶ 81, 89.

7 **A. The Asserted Patents**

8 The ’591 patent was filed on May 20, 2010, and issued on September 3, 2013.
 9 *See* Compl. Ex. C at 1. The ’145 patent is a continuation of and claims priority to the
 10 ’591 patent, was filed on July 26, 2013, and issued on November 10, 2015. *See*
 11 Compl. Ex. B at 1. The ’448 patent claims priority to U.S. Patent App. 12/783,735,
 12 has a priority date of May 20, 2010, was filed on August 19, 2015, and issued on
 13 November 1, 2016. *See* Compl. Ex. A at 1.

14 The ’591 and ’145 patents are related family members and share a common
 15 specification. The ’448 patent has substantially the same specification as the ’591
 16 and ’145 patents. All three Asserted Patents are directed toward methods “for joining
 17 a synchronized browsing session administered by a synchronization server,
 18 comprising activating a hyperlink associated with the synchronized browsing
 19 session, sending a request to join the synchronized browsing session to the
 20 synchronization server in response to the activation of the hyperlink, and joining the
 21 synchronized browsing session.” ’591 patent 2:54-60. The foregoing is
 22 accomplished through the use of generically described components such as
 23 computers, servers, and the Internet. *See, e.g., id.* at 10:6-9 (“Fig. 2(a) shows host
 24 device **10**, synchronization server **13** and guest device **14** transmitting data
 25 communication to initialize a synchronized browsing session between host device **10**
 26 and guest device **14**.”), 6:6-11 (“host device **10** may comprise a personal computer,
 27 mobile phone, Smartphone, IPAD®, or other type of electronic device with a visual
 28 user interface and a network connection such that a user may access and view a third

1 party website such as one provided by website server **12** over internet **11.**”).

2 Independent Claim 1 of the ’591 patent recites as follows:

3 **1.** A method for a guest device performing a synchronized browsing session

4 administered by a synchronization server, comprising:

5 detecting an activation of a hyperlink associated with the synchronized

6 browsing session by a guest device;

7 sending a request by the guest device to join the synchronized browsing

8 session to the synchronization server in response to the activation of the

9 hyperlink;

10 receiving from the synchronization server a notification that guest device

11 has joined the synchronized browsing session;

12 receiving data from the synchronization server, where the data relates to a

13 website being accessed in real-time by a host device; and wherein the

14 data comprises a URL of the website and cookie information associated

15 with the website and the host device; and

16 operating a browser by the guest device based on the data received from

17 the synchronization server.

18 Independent claim 10 of the ’591 patent similarly claims the foregoing in apparatus

19 form. Claims 2-9 depend from claim 1, and claims 11-18 depend from claim 10. The

20 dependent claims add trivial or conventional additional limitations to the independent

21 claims, such as additional steps or usage of common Internet components. *See, e.g.,*

22 ’591 patent cl. 2 (“further comprising receiving an invitation”), cl. 3 (“wherein the

23 invitation comprises the hyperlink associated with the synchronized browsing

24 session.”).

25 Independent claim 1 of the ’591 patent is representative of all claims across

26 the Asserted Patents.¹ All claims are very similar in scope and recite the same basic

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28 ¹ In *Alice*, the Supreme Court considered a representative method claim and, after

1 steps: (1) sending a request by a first device to join a synchronized browsing session;
 2 (2) receiving information at a second device about the website content accessed; and
 3 (3) accessing the website content by the second device for synchronizing the session.
 4 The Asserted Patents' dependent claims are also very similar in scope to one another.
 5 *See, e.g.*, '145 patent cl. 2 ("said invitation comprises a hyperlink associated with
 6 said synchronized browsing session."), cl. 3 ("wherein said invitation is received via

8 finding the method claim ineligible, found the asserted system claims invalid as
 9 "add[ing] nothing of substance to the underlying [] idea" without performing a claim-
 10 by-claim analysis. *See Alice Corp. Pty. Ltd. v. CLS Bank Int'l*, 134 S. Ct. 2347, 2360
 11 (2014). Following *Alice*, district courts and the Federal Circuit have done the
 12 same. In *Content Extraction & Transmission LLC v. Wells Fargo Bank, N.A.*, the
 13 district court found 242 claims of four patents ineligible under Section 101 based on
 14 its analysis of two representative claims, even where the parties had not agreed
 15 beforehand on the set of representative claims. 776 F.3d 1343, 1348 (Fed. Cir.
 16 2014). The Federal Circuit rejected the Patent Owner's contention that the district
 17 court erred by failing to address each claim individually, finding that such an analysis
 18 was "unnecessary." *Id.* The Federal Circuit found the claims of the patents, which,
 19 like here, shared a common specification, all drawn to the same abstract idea, and
 20 noted that the Patent Owner failed to identify any claim that was distinguishable from
 21 the representative claims. *Id.* at 1347-48. Claims from one patent can be
 22 representative of claims from related patents when analyzing patentable subject
 23 matter under Section 101. *See, e.g., Two-Way Media Ltd. v. Comcast Cable*
 24 *Commc'ns, LLC*, 874 F.3d 1329, 1333 (Fed. Cir. 2017) (explaining that related
 25 patents with "substantially the same specification" are representative across all
 26 claims of the patents, and conducting the subject matter analysis on the representative
 27 claim for all patents). For completeness, dependent claims are addressed in Section
 28 D, *infra*.

1 a viable means of communication.”); ’448 patent cl. 2 (“receiving a notification
 2 message indicative of the invitee device joining the synchronized browsing
 3 session.”), cl. 3 (“activating a hyperlink on a website to initialize the sending of the
 4 request.”). Any differences between claims are trivial or conventional added
 5 limitations that do not impact the analysis of patentable subject matter. Moreover,
 6 the Asserted Patents share substantially similar specifications, and are directed
 7 toward the same subject matter. Accordingly, all arguments made throughout this
 8 brief similarly apply to all claims in the Asserted Patents.

9 **III. ARGUMENT**

10 A complaint should be dismissed pursuant to Fed. R. Civ. P. 12 if it does not
 11 include “enough facts” that, when taken as true, “state a claim to relief that is
 12 plausible on its face.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007).
 13 Challenges to patentable subject matter are appropriate in Rule 12 motions to dismiss.
 14 *See, e.g., Repifi Vendor Logistics, Inc. v. IntelliCentrics, Inc.*, No. 2021-1906, 2022
 15 WL 794981, at *1 (Fed. Cir. Mar. 15, 2022); *Content Aggregation Sols. LLC v. BLU*
 16 *Prods., Inc.*, No. 16-cv-00527-BEN-KSC, 2016 WL 6995490, at *11 (S.D. Cal. Nov.
 17 29, 2016).

18 **A. Patent Eligibility Under 35 U.S.C. § 101**

19 Courts apply a two-step analysis to evaluate patent eligibility under Section
 20 101. *Alice Corp. Pty. Ltd. v. CLS Bank Int’l*, 573 U.S. 208, 217-18 (2014). First, the
 21 Court “determine[s] whether the claims at issue are directed to a patent-ineligible
 22 concept,” such as an abstract idea. *Id.* at 218. Courts consider “whether the claims
 23 focus on ‘the specific asserted improvement in computer capabilities . . . or, instead,
 24 on a process that qualifies as an “abstract idea” for which computers are invoked
 25 merely as a tool” to perform an abstract idea. *Finjan, Inc. v. Blue Coat Sys., Inc.*,
 26 879 F.3d 1299, 1303 (Fed. Cir. 2018) (citations omitted). One example is a “method
 27 for organizing human activity.” *See Repifi*, 2022 WL 794981, at *2.

28 Second, if the Court finds the claims are directed to an abstract idea, it then

1 should hold the claims ineligible unless it finds an additional “inventive concept”—
 2 beyond the abstract idea—in the claims. *Alice*, 573 U.S. at 217–18. The Court
 3 considers “the elements of each claim both individually and ‘as an ordered
 4 combination’ to determine whether the additional elements ‘transform the nature of
 5 the claim’ into a patent-eligible application.” *In re TLI Commc’ns LLC Patent Litig.*,
 6 823 F.3d 607, 611 (Fed. Cir. 2016) (citations omitted). It is insufficient to implement
 7 an abstract idea using well-known computer components or functions, limit the idea
 8 to a particular technological environment, or add other token steps. *Alice*, 573 U.S.
 9 at 221-26; *see also Bilski v. Kappos*, 561 U.S. 593, 602, 610-12 (2010).

10 **B. Abstract Idea**

11 The Asserted Patents claim an abstract idea directed toward organizing human
 12 activity. *Cf. Repifi*, 2022 WL 794981, at *2. When distilled to their primary
 13 elements, the Asserted Patents claim steps to send and receive information for
 14 simultaneous interaction. These are the very activities that make humans human.
 15 Courts routinely find these types of claims to be non-patentable abstract ideas
 16 because they have long been the subject of organized human activity. Humans have
 17 simultaneously interacted without electronic devices since the dawn of humanity.
 18 Even before we could speak, we could successfully interact with one another just by
 19 pointing.

20 The Asserted Claims’ use of computers, other devices, and the Internet fail to
 21 convert them to patentable claims as a matter of law. The claims’ use of devices to
 22 facilitate a “synchronized browsing session” do not save them, because they are
 23 merely generic devices that permit the same simultaneous interaction humans have
 24 engaged in since the dawn of man. And because the Asserted Claims are directed to
 25 organized human activity and interaction, the language of the claims themselves do
 26 not provide a solution to a technology-specific problem. In fact, the Federal Circuit
 27 has held that the Asserted Patents’ alleged improvements to operability and security
 28 are still nonetheless abstract. Regardless, the text of the Asserted Claims does not

1 describe how to achieve these alleged improvements, but instead uses result-focused,
 2 functional objectives and conventional components. Accordingly, the Asserted
 3 Claims are directed to an abstract idea.

4 **1. The Focus of the Asserted Claims is Directed to the Abstract**
 5 **Idea of Sending and Receiving Information for**
 6 **Simultaneous Interactions**

7 To assess whether the Asserted Claims are directed to an abstract idea, the
 8 court first examines the “focus of the claims.” *BSG Tech LLC v. BuySeasons, Inc.*,
 9 899 F.3d 1281, 1286 (Fed. Cir. 2018) (citation omitted); *see also Elec. Power Grp.*
 10 *v. Alstom S.A.*, 830 F.3d 1350, 1353-54 (Fed. Cir. 2016) (“[W]e have described the
 11 first-stage inquiry as looking at the ‘focus’ of the claims, their ‘character as a whole.’”
 12 (citations omitted)). Here, the claim language makes clear that sending and receiving
 13 information for simultaneous interactions is the focus of the Asserted Claims.² This

14 ² *See, e.g.*, ’591 patent cl. 1 (“sending a request by the guest device to join the
 15 synchronized browsing session ... receiving from the synchronization server a
 16 notification that guest device has joined the synchronized browsing session ... a
 17 website being accessed in real-time by a host device...”); ’145 patent cl. 1 (“receiving
 18 from the synchronization server a session invitation ... activating the session
 19 invitation to send a request to join said synchronized browsing session ... receiving
 20 web browsing interaction data ... associated with: a website ..., and the host device
 21 that has initiated the session invitation...”); ’448 patent at cl. 1 (“sending a request
 22 to establish the synchronized browsing session ... receiving a confirmation message
 23 ... sending an invitation to an invitee device to join the synchronized browsing
 24 session ... sending a request for webpage content to a website ... receiving,
 25 responsive to sending the request for webpage content ... the requested webpage
 26 content from the website.”).

27 The dependent claims similarly focus on the same abstract idea, and add only
 28 further steps or conventional components to carry out the abstract idea. *See, e.g.*,

1 is an abstract idea. Courts have routinely invalidated patents directed to such
2 organized human activity, finding they fail the first step of the *Alice* test.

3 In *Pragmatus Telecom, LLC v. Genesys Telecomms. Lab'ys, Inc.*, the court
4 analyzed U.S. Patent No. 8,438,314. 114 F. Supp. 3d 192, 196 (D. Del. 2015). U.S.
5 Patent No. 8,438,314 disclosed and was directed to collaborative screen sharing. See
6 U.S. Pat. No. 8,438,314³ at abstract (“[T]he connection between the customer with
7 the question and the agent with the answer is done quickly and efficiently with **both**
8 **parties sharing screens** of common information.”) (emphasis added), 10:56-59
9 (“Screens appearing on the agents computer appear on the customer’s computer, as
10 what the customer sees is an exact duplicate of what the agent sees.”), 10:64-66 (“The
11 above combining of ACD, SVD and WWW building blocks allows **collaborative**
12 **screen sharing** between customers and ACD agents.” (emphasis added)), cl. 1
13 (claiming a server and call center to “forward” and “receive data,” “a remote help
14 option,” and “a contact channel” through an IP address to connect the customer and
15 call center), cl. 4 (“wherein the established communication between the call centre and
16 the user of the customer terminal **is performed in real-time**”) (emphasis added).

17 The court held the patent was directed to “the abstract idea of communication
18 between a customer and a business using a call center,” and that the claims only
19 “automated and obfuscated” the communication “along the way using certain
20 computer, telephonic and network services.” See *Pragmatus Telecom*, 114 F. Supp.
21 3d at 200. The court further stated that even though “this invention might be faster,

22 _____
23 ’591 patent cl. 2 (“further comprising receiving an invitation”); ’145 patent at cl. 2
24 (“wherein said invitation comprises a hyperlink”); ’448 patent at cl. 2 (“further
25 comprising receiving a notification message.”); see also *infra* Section D.

26 ³ [https://patft.uspto.gov/netacgi/nph-Parser?Sect1=PTO1&Sect2=HITOFF&d=](https://patft.uspto.gov/netacgi/nph-Parser?Sect1=PTO1&Sect2=HITOFF&d=PALL&p=1&u=%2Fmetahtml%2FPTO%2Fsrchnum.htm&r=1&f=G&l=50&s1=8,438,314.PN.&OS=PN/8,438,314&RS=PN/8,438,314)
27 [PALL&p=1&u=%2Fmetahtml%2FPTO%2Fsrchnum.htm&r=1&f=G&l=50&s1=8,4](https://patft.uspto.gov/netacgi/nph-Parser?Sect1=PTO1&Sect2=HITOFF&d=PALL&p=1&u=%2Fmetahtml%2FPTO%2Fsrchnum.htm&r=1&f=G&l=50&s1=8,438,314.PN.&OS=PN/8,438,314&RS=PN/8,438,314)
28 [38,314.PN.&OS=PN/8,438,314&RS=PN/8,438,314](https://patft.uspto.gov/netacgi/nph-Parser?Sect1=PTO1&Sect2=HITOFF&d=PALL&p=1&u=%2Fmetahtml%2FPTO%2Fsrchnum.htm&r=1&f=G&l=50&s1=8,438,314.PN.&OS=PN/8,438,314&RS=PN/8,438,314) (last visited May 20, 2022).

1 automated, and more streamlined using web pages,” “the idea at its core is connecting
2 customers to call centers.” *Id.*

3 The court in *Williamson v. Citrix Online, LLC* held similar simultaneous screen
4 sharing claims to be abstract. The patents there were method claims comprising
5 “(1) the creation of a ‘graphical display representative of a classroom,’ . . . and (2) the
6 creation of windows for displaying data streams on two different computer systems
7 that are ‘displayed simultaneously.’” 212 F. Supp. 3d 887, 897 (C.D. Cal. 2016).
8 The court held the claims were directed to an abstract idea even though it “create[s]
9 a virtual environment that permits multiple users to **view** content and **interact**
10 **simultaneously**.” *Id.* (emphasis added). The Federal Circuit agreed. 683 F. App’x
11 956 (Fed. Cir. 2017) (affirmed *per curiam* without opinion).

12 The Federal Circuit routinely finds claims that send, receive, and display
13 information and data are directed toward abstract ideas. *See, e.g., In re Greenstein*,
14 778 F. App’x 935, 936-37 (Fed. Cir. 2019) (sending and receiving requests using
15 software, a computer, and the Internet); *Intell. Ventures I LLC v. Erie Indem. Co.*,
16 850 F.3d 1315, 1330-31 (Fed. Cir. 2017) (a device pointing to remote data sources is
17 directed to the abstract idea of remotely accessing user specific information);
18 *Lendingtree, LLC v. Zillow, Inc.*, 656 F. App’x 991, 993, 996-97 (Fed. Cir. 2016)
19 (receiving, storing, and displaying documents in a website to coordinate loans);
20 *Intell. Ventures I LLC v. Symantec Corp.*, 838 F.3d 1307, 1314 (Fed. Cir. 2016)
21 (receiving, processing, and outputting data *via* email is an abstract idea, because “it
22 was [a] long-prevalent practice for people [to] receiv[e] paper mail”).

23 The Southern District of California has also invalidated claims that are web-
24 based information exchanges. In *Content Aggregation Sols. LLC v. BLU Prods., Inc.*,
25 the court analyzed claims directed to the sending and receiving of information to and
26 from an “*internet site*.” No. 16-cv-00527-BEN-KSC, 2016 WL 6995490, at *3 (S.D.
27 Cal. Nov. 29, 2016) (emphasis added). The Court found the claim was directed to
28 the abstract idea of “retrieving and transmitting data” and “collecting, analyzing, and

1 presenting information.” *See id.* at *5.

2 Nearly identical to the cases above, the Asserted Claims are directed toward
3 sending and receiving information and data for simultaneous interactions. This is a
4 conventional practice that has long been the subject of organized human activity in
5 the pre-Internet world. Indeed, people were sending letters to communicate and
6 collaboratively work on a task with each other ever since humans could write.⁴ *Cf.*
7 *Symantec Corp.*, 838 F.3d at 1313. Even prior to writing, humans could issue a verbal
8 invitation to collaborate on a task.

9 Simultaneously collaborating on a work, document, or page shown on a single
10 screen also is not new. It is akin to simultaneously viewing and notating a document
11 shown on an overhead projector, which existed long before the Internet. Moreover,
12 Samesurf admits its inventions are limited to the organized human activity of
13 collaborative visual interaction. *See* Compl. ¶ 35 (“K. David Pirnazar, a co-founder
14 and CEO of Samesurf, invented and established a new standard for *visual*
15 *communication* that is highly efficient and one that protects sensitive information
16 during shared browsing sessions.”) (emphasis added). Indeed, visual communication
17 and collaboration is the oldest form of human interaction. Before formal language
18 existed, humans could merely point out what they needed to convey and collaborate
19 on. For example, ancient human hunters hiding on opposite sides of a ravine could
20 use hand signals to communicate how to simultaneously catch their prey. This
21 concept is no different than the visual interaction in the Asserted Claims. Thus, the
22 Asserted Patents’ claims are directed to an age-old, abstract idea of organized human
23 activity.

24 _____
25 ⁴ The Court may properly draw on its knowledge of well-known practices that long
26 predate the patents. *See* Fed. R. Evid. 201(b) (“The court may judicially notice a fact
27 that is not subject to reasonable dispute because it: (1) is generally known within the
28 trial court’s territorial jurisdiction”).

1 Further, “merely tak[ing] these age-old ideas and add[ing] a computer . . . is
2 insufficient to confer patent eligibility.” *Evolutionary Intell., LLC v. Sprint Nextel*
3 *Corp.*, 137 F. Supp. 3d 1157, 1167 (N.D. Cal. 2015), *aff’d*, 677 F. App’x 679 (Fed.
4 Cir. 2017); *see also In re TLI Commc’ns*, 823 F.3d at 613 (“[Limiting] the abstract
5 idea to a particular environment—a mobile telephone system—[] does not make the
6 claims any less abstract.”). And the “mere automation of manual processes using
7 generic computers does not constitute a patentable improvement in computer
8 technology.” *Credit Acceptance Corp. v. Westlake Servs.*, 859 F.3d 1044, 1055 (Fed.
9 Cir. 2017); *see Univ. of Fla. Rsch. Found., Inc. v. Gen. Elec. Co.*, 916 F.3d 1363,
10 1367 (Fed. Cir. 2019) (holding that “automation” of “pen and paper methodologies”
11 is a “quintessential ‘do it on a computer’ patent” and does not make an idea less
12 abstract under *Alice* Step 1 (citation omitted)).

13 The Asserted Claims’ requirement that the method be “administered by a
14 synchronization server” and other electronic devices fails to rescue the claims from
15 being abstract. These are just tools to automate and carry out the claimed abstract
16 idea. The synchronization server is a generic device facilitating the synchronized
17 browsing session, which is simultaneous interaction over the Internet. *See, e.g.*, ’591
18 patent 2:54-60 (“for joining a synchronized browsing session administered by a
19 synchronization server, comprising activating a hyperlink associated with the
20 synchronized browsing session, sending a request to join the synchronized browsing
21 session to the synchronization server in response to the activation of the hyperlink,
22 and joining the synchronized browsing session.”), 5:19-22 (“In a synchronized
23 browsing session, two or more people may read the same article, watch the same
24 video, or shop for the same item automatically, without the hassle of coordinating
25 user input.”), 6:12-15 (“Guest devices 14 and 15 are components of the present
26 invention that may join a synchronized browsing session to view internet browsing
27 conducted by host device 10 via relay communication over synchronization server
28 13.”), 7:8-10 (“a device in a synchronized browsing session may possess leading,

1 following, or both leading and following characteristics.”). Thus, the Asserted
 2 Claims merely take the above well-known and abstract concepts of organized human
 3 interaction and apply them to computers and the Internet to carry out the claimed
 4 exchange of information. Accordingly, Samesurf cannot escape the fact that it has
 5 claimed an abstract idea.

6 **2. The Asserted Claims Neither Provide a Solution to a**
 7 **Technology-Specific Problem Nor Address such a Problem.**

8 Samesurf cannot contend the Asserted Claims solved a technological problem.
 9 The alleged technological problem was that “there [was] no *effective, fully interactive*
 10 modality that enable[d] a group of users to view and interact with internet content
 11 and media simultaneously with others on different computers or other connected
 12 devices with all of those users empowered to interact with that content in real-time
 13 on a simultaneous basis,” because the prior methods for real-time interaction required
 14 “large files or packets and require[d] high levels of bandwidth and computer
 15 processing power.” ’591 patent at 2:7-12, 25:27 (emphasis added). Samesurf also
 16 alleges its co-browsing technology made

17 enhancements to multi-way, simultaneous interactivity, sensitive data
 18 security, computing resource and bandwidth utilization level
 19 efficiencies, computer and network security, the ability for multiple
 20 users to simultaneously view and listen to rich media content without
 21 latency or choppiness, and scalability to levels that were not possible
 22 with prior technology.

23 Compl. ¶ 63; *see also id.* ¶¶ 61-62.

24 Even though the above-alleged improvement to reduce required bandwidth
 25 and increase real-time operability may appear to be limited only to the Internet or a
 26 technology-specific problem, it is nonetheless still abstract. The Federal Circuit has
 27 held that “[t]he claimed use of the Internet and generic computer functionality to
 28 receive, manipulate, and transmit data serves to [only] ‘limit[] the field of use of the

1 abstract idea to a particular existing technological environment,’ but it ‘does not
 2 render the claims any less abstract.’” *In re Greenstein*, 778 F. App’x at 938 (quoting
 3 *Affinity Labs of Tex., LLC v. DIRECTV, LLC*, 838 F.3d 1253, 1259 (Fed. Cir. 2016)).

4 Moreover, the Federal Circuit has specifically held that the Asserted Patents’
 5 alleged efficiency improvements are abstract, because “automation of” a
 6 “conventional human process to make it more efficient is itself an abstract idea.”
 7 *Repifi*, 2022 WL 794981, at *2-3 (finding claims directed to “improved visitor
 8 documentation compliance, obviating the need for unreliable hardware” and
 9 “improvements to computer operation” “does not save claim 1 from targeting an
 10 abstract concept” (citations omitted)). In fact, the Federal Circuit has held claims
 11 directed to improved bandwidth are abstract. In *Sensormatic Elecs., LLC v. Wyze*
 12 *Labs, Inc.*, the Federal Circuit rejected plaintiff’s allegations that the patent
 13 “improve[d] use of bandwidth and device compatibility,” and stated that “[t]he
 14 concept of encoding or decoding image data is abstract, even if [it is] for the purpose
 15 of transmitting files to devices with less memory or bandwidth or by transcoding data
 16 into multiple formats.” No. 2020-2320, 2021 WL 2944838, at *3 (Fed. Cir. July 14,
 17 2021).

18 Samesurf and the Asserted Patents seek to improve the bandwidth
 19 functionality of the claimed communication exchange by adding devices that simply
 20 automate the process. *See, e.g.*, ’591 patent at 2:7-12, 25:27, cl. 1 (“synchronization
 21 server”); Compl. ¶¶ 61-63. Just like the claims in *Sensormatic*, the Asserted Patents’
 22 alleged bandwidth improvements are abstract, regardless of the alleged
 23 improvements they provide.

24 Improved security over the Internet through the use of a server also is an
 25 abstract idea. “The fact that communication is ‘switched’ from a website hosted on
 26 one server to a website hosted on another server *with better security* does not mean
 27 the invention is directed to ‘a specific improvement in the capabilities of computing
 28 devices.’” *Innovation Scis., LLC v. Amazon.com, Inc.*, 778 F. App’x 859, 863 (Fed.

1 Cir. 2019) (quoting *Core Wireless Licensing S.A.R.L. v. LG Elecs., Inc.*, 880 F.3d
 2 1356, 1361 (Fed. Cir. 2018)) (finding the claims were “directed to the abstract idea
 3 of securely processing a credit card transaction with a payment server”). To the
 4 extent the Asserted Patents are directed to improved security of the communication
 5 process, they nonetheless remain an abstract idea as a matter of law.

6 The Asserted Claims themselves also fail to address the problem they sought
 7 to fix. Indeed, the Asserted Claims recite no detailed technical solution whatsoever.
 8 To do so, the claims’ text must “sufficiently describe how to achieve [the solution]
 9 in a non-abstract way.” *Two-Way Media Ltd. v. Comcast Cable Commc’ns, LLC*,
 10 874 F.3d 1329, 1337 (Fed. Cir. 2017). Nor can claims merely recite “result-focused
 11 functional . . . language,” because such functional language, without “any limiting
 12 detail that confines the claim to a particular solution to an identified problem,” cannot
 13 make a claim non-abstract at *Alice* step one. See *Affinity Labs of Tex., LLC v.*
 14 *Amazon.com Inc.*, 838 F.3d 1266, 1269-70 (Fed. Cir. 2016). Stated otherwise, claims
 15 that merely recite “the technological context of the invention and its end goal,” but
 16 not “the how that’s nominally the subject of the claimed invention” is improper.
 17 *Sungkyunkwan Univ. Rsch. Bus. Found. v. LMI Techs. (USA) Inc.*, No. 16-CV-
 18 06966-VC, 2017 WL 1900737, at *1-2 (N.D. Cal. May 3, 2017); see, e.g., *NetSoc,*
 19 *LLC v. Quora, Inc.*, No. 19-CV-06518-VC, 2020 WL 415919, at *2–3 (N.D. Cal.
 20 Jan. 27, 2020) (finding “the claims [did] not describe any improvements to the
 21 technology itself, and “reciting that the abstract idea will be implemented using the
 22 conventional components and functions generic to networks is not enough”
 23 (alterations and citations omitted)), *aff’d*, 838 F. App’x 544 (Fed. Cir. 2020); *Windy*
 24 *City Innovations, LLC v. Facebook, Inc.*, 411 F. Supp. 3d 886, 896 (N.D. Cal. 2019)
 25 (collecting cases), *aff’d*, 835 F. App’x 610 (Fed. Cir. 2021) (*per curiam*). Limitations
 26 requiring “converting,” “routing,” “controlling,” “monitoring,” and “accumulating”
 27 information are directed to an abstract idea when they do “not sufficiently describe
 28 how to achieve these results in a non-abstract way.” *Two-Way Media*, 874 F.3d at

1 1337.

2 Here, the Asserted Claims make no mention for *how* to reduce bandwidth and
3 improve security. They merely recite that the synchronization server sends and
4 receives requests to set up the synchronized browsing session, and that the browsing
5 session is run on the guest device. *See, e.g.*, ’591 patent cl. 1.

6 Instead, the Asserted Claims recite result-focused, functional objectives of
7 generic components without offering any specific mechanisms or technical solutions
8 with which to meet those objectives. For example, claim 1 of the ’591 patent recites
9 a myriad of present participles and gerunds similar to those identified in *Two Way*
10 *Media*, and other adverbs, that indicate the claims are directed to an abstract idea: a
11 guest device “*performing* a synchronized browsing session *administered by* a
12 synchronization server,” “*detecting* an *activation* of a hyperlink,” “*sending* a request
13 by the guest device *to join* the synchronized browsing session to the synchronization
14 server,” “*receiving* from the synchronization server a notification,” “*receiving* data
15 from the synchronization server,” and “*operating* a browser by the guest device.”
16 The claims do not explain *how* the above generic functions are performed or allegedly
17 solve the specified problems, and are thus directed to an unpatentable abstract idea.

18 Reference to the specification cannot save the Asserted Claims from being
19 abstract, because “[t]he § 101 inquiry must focus on the language of the [a]sserted
20 [c]laims themselves, and the specification cannot be used to import details . . . if those
21 details are not claimed.” *ChargePoint, Inc. v. SemaConnect, Inc.*, 920 F.3d 759, 769
22 (Fed. Cir. 2019) (citation omitted). Additionally, “[w]here ‘the claims themselves
23 only contain generalized software components arranged to implement an abstract
24 concept on a computer’ without any additional features or limits, ‘the complexity of
25 the implementing software or the level of detail in the specification does not
26 transform a claim reciting only an abstract concept into a patent-eligible system or
27 method.’” *Windy City*, 411 F. Supp. 3d at 897 (quoting *Accenture Glob. Servs.*
28 *GmbH v. Guidewire Software, Inc.*, 728 F.3d 1336, 1345 (Fed. Cir. 2013)).

1 The Asserted Claims merely recite generalized software components and
2 require only three hardware components: a guest device; a host device, and a
3 synchronization server. These elements do not provide the specificity required to
4 transform the claims into patentable subject matter. And, even if Samesurf could rely
5 on the Asserted Patents' specifications, the specifications merely generalize the same
6 sending and receiving steps that the guest device, host device, and synchronization
7 server (and its components) must take to set up the synchronized browsing session.
8 *See, e.g.*, '448 patent at 9:20-10:2; 10:27-12:46, 16:5-20:2. The Asserted Claims,
9 even when read in view of the specification, remain an abstract idea.

10 As written, the Asserted Claims do not provide technology specific solutions,
11 nor address the problem. Thus, the claims are directed to an abstract idea.

12 **C. The Asserted Claims Do Not Have an Inventive Step**

13 The Asserted Claims fail to provide any inventive step that could transform
14 the claims from a mere abstract idea into patentable subject matter. Where, as here,
15 a claim is directed to an abstract idea, the court must then "determine whether it
16 contains an 'inventive concept' sufficient to 'transform' the claimed abstract idea
17 into a patent-eligible application." *Alice*, 573 U.S. at 221 (citation omitted). "The
18 transformation of an abstract idea into patent-eligible subject matter 'requires more
19 than simply stating the abstract idea while adding the words apply it.'" *Ultramercial*,
20 *Inc. v. Hulu, LLC*, 772 F.3d 709, 715 (Fed Cir. 2014) (alterations omitted)
21 (quoting *Alice*, 573 U.S. at 221). Implementing the abstract idea on the Internet "is
22 not sufficient to save otherwise abstract claims from ineligibility under §
23 101." *Ultramercial*, 772 F.3d at 716. Non-inventive elements include those that are
24 "well-understood, routine, conventional," and those implemented on a "generic"
25 computer. *Alice*, 573 U.S. at 225; *Ultramercial*, 772 F.3d at 714-15.

26 Here, the method claims only recite well-understood, routine, and
27 conventional activities that are carried out on generic equipment, such as computers,
28 servers, processors, and the Internet, all of which are used according to their

1 conventional, routine functions. The apparatus claims are similarly directed to a
2 server or processor that coordinates the sending and receiving of electronic data,
3 using the same conventional and routine tasks, and generic computer and Internet
4 components, as the method claims. *Cf. Planet Bingo, LLC v. VKGS LLC*, 576 F.
5 App’x 1005, 1007 (Fed. Cir. 2014) (“The system claims recite the same basic process
6 as the method claims, and the dependent claims recite only slight variations of the
7 independent claims” and therefore they are properly analyzed together.).

8 The synchronization server or processor in the Asserted Claims is not special
9 in any way, nor does it differ from standard servers or processors:

10 FIG. 1(e) illustrates a block diagram of the components of an exemplary
11 synchronization server. FIG. 1(e) illustrates synchronization server 13,
12 comprising processor 28, network interface 29, session identification
13 database 30, and affiliate database 31. Synchronization server 13 is
14 designed to establish and facilitate a synchronized browsing session
15 between host device 10 and guest device 14.
16 Processor 28 is a component of synchronization server 13 that may
17 utilize network interface 29, session identification database 30 and
18 affiliate database 31 in order to establish and facilitate a synchronized
19 browsing session between host device 10 and guest device 14.

20 ’591 patent at 9:20-31. All of the foregoing components and steps for data exchange
21 between these components were in existence long before the Asserted Patents.

22 The guest and host devices also are not special in any way because they are “a
23 personal computer, mobile phone, Smartphone, IPAD®, or other type of electronic
24 device with a visual user interface and a network connection such that a user may
25 access and view a third party website such as one provided by website server **12** over
26 internet **11**.” *See* ’591 patent at 6:3-21.

27 The above are generic computing components performing their ordinary
28 functions, and thus cannot supply an inventive concept. *Cf. Mortgage Grader, Inc.*

1 v. *First Choice Loan Servs., Inc.*, 811 F.3d 1314, 1324-25 (Fed. Cir. 2016) (“[T]he
 2 claims ‘add’ only generic computer components such as an ‘interface,’ ‘network,’
 3 and ‘database.’ These generic computer components do not satisfy the inventive
 4 concept requirement.”); *Content Aggregation Sols.*, 2016 WL 6995490, at *5 (“Here,
 5 the claims simply implement the abstract idea of retrieving and transmitting
 6 information on the Internet via a generic device.”). And although the Asserted
 7 Claims recite “synchronization server” and “synchronized browsing session,” “[t]he
 8 mere fact that the inventor applied coined labels to conventional structures does not
 9 make the underlying concept inventive.” See *Intell. Ventures I LLC v. Capital One*
 10 *Fin. Corp.*, 850 F.3d 1332, 1342 (Fed. Cir. 2017). As the Federal Circuit noted, *Alice*
 11 itself involved the Supreme Court’s finding patent-ineligibility “despite the recitation
 12 of technical-sounding names such as ‘shadow credit record[s]’ and ‘shadow debit
 13 record[s].’” *Id.*

14 The Asserted Claims are result-focused, functionally claimed generic
 15 components that do not add any inventive step. “[F]unctional descriptions devoid of
 16 technical explanation as to how to implement the invention” provide no inventive
 17 concept. *In re TLI Commc’ns*, 823 F.3d at 615; see *TriDim Innovations LLC v.*
 18 *Amazon.com, Inc.*, 207 F. Supp. 3d 1073, 1080 (N.D. Cal. 2016) (“[Claim] elements
 19 that are defined only in terms of their functionalities, whether considered separately
 20 or as an ordered combination, fall short of constituting an inventive concept.”); *cf.*
 21 *Affinity Labs of Tex., LLC v. DIRECTV, LLC*, 838 F.3d 1253, 1262 (Fed. Cir. 2016)
 22 (finding no inventive concept where the “claim simply recites the use of generic
 23 features of cellular telephones, such as a storage medium and a graphical user
 24 interface, as well as routine functions, such as transmitting and receiving signals, to
 25 implement the underlying idea”).

26 Other than the claimed generic physical hardware devices and common
 27 Internet usage techniques, the Asserted Claims recite mere functional language. See,
 28 e.g., ’591 patent cl. 1 (“detecting an activation of a hyperlink,” “sending a request ...

1 to join the synchronized browsing session ... in response to the activation of the
2 hyperlink,” “receiving ... a notification that guest device has joined the synchronized
3 browsing session,” “receiving data” “and operating a browser ... based on the data
4 received...”). The Asserted Claims lack any recitation for *how* to perform these
5 functions, let alone in an inventive way, and thus lack an inventive step.

6 To the extent the Asserted Claims require a specific order or combination of
7 claim elements, they do not “‘transform the nature of the claim’ into a patent-eligible
8 application.” *Alice*, 573 U.S. at 217 (citation omitted). The Asserted Claims merely
9 require the physical components to send and receive information to initiate a
10 synchronized browsing experience. Logically, initiating the browsing experience
11 necessitates a particular order of steps—because a user cannot join a browsing
12 session unless and until they are invited to do so. Thus, the very nature of the claims
13 requires their steps to be “ordered in a conventional manner,” and to proceed just as
14 humans exchanging information would: first, receive the information to join the
15 session (*e.g.*, an invitation to have a conversation about a document); second, accept
16 the information and notify the sender (*e.g.*, accepting and responding to the
17 invitation); and then finally join the session (*e.g.*, engaging in the conversation and
18 jointly reviewing the document). And to the extent these elements appear to combine
19 multiple abstract ideas, such as exchanging information plus the simultaneous
20 interaction, that also fails *Alice* step two because adding one abstract idea to another
21 abstract idea does not render the claim non-abstract or non-inventive. See
22 *RecogniCorp, LLC v. Nintendo Co.*, 855 F.3d 1322, 1327 (Fed. Cir. 2017).

23 The remainder of the claims also fail to create an inventive step, because
24 adding mere “token postsolution components” or “insignificant postsolution activity”
25 to the abstract idea are not sufficient. See *Bilski*, 561 U.S. at 611-12 (citations
26 omitted); *Apple, Inc. v. Ameranth, Inc.*, 842 F.3d 1229, 1244 (Fed. Cir. 2016). Such
27 limitations do not change the core “concept embodied by the majority of the
28 limitations.” *Ultramercial*, 772 F.3d at 715. For example, the Asserted Claims recite

1 wherein clauses that either have no bearing on the function and result of the abstract
 2 claims, or require certain elements to occur after the abstract exchange of information
 3 has occurred. *See, e.g.*, '591 patent at cl. 1 (“wherein the data comprises a URL of
 4 the website and cookie information associated with the website and the host device”);
 5 *see also, e.g.*, '145 patent cl. 1 (“wherein said web browsing interaction data is
 6 associated with: a website server that is independent of the synchronization server”);
 7 '448 patent cl. 1 (“wherein the information related to the shared web browsing
 8 interaction is to be processed by a browser of the invitee device and enables the
 9 invitee device to generate a request to retrieve a substantially the same webpage
 10 content as the request for the webpage content from the host device”). These
 11 elements are post solution types of activities that do not change the Asserted Claims’
 12 abstract idea of exchanging information into something more.

13 Samesurf’s allegations in the Complaint cannot save the Asserted Claims from
 14 being unpatentable. *See Data Scape Ltd. v. W. Digital Corp.*, 816 F. App’x 461, 462-
 15 63 (Fed. Cir. 2020) (finding claims relating to media transfer to be abstract and
 16 invalid under Section 101, despite assertion that the patents made transfer processes
 17 less “cumbersome”); *Content Extraction & Transmission LLC v. Wells Fargo Bank,*
 18 *Nat’l Ass’n*, 776 F.3d 1343, 1347-48 (Fed. Cir. 2014) (“For the role of a computer in
 19 a computer-implemented invention to be deemed meaningful in the context of this
 20 analysis, it must involve more than performance of ‘well-understood, routine, [and]
 21 conventional activities previously known **to the industry.**’” (emphasis added)
 22 (quoting *Alice*, 573 U.S. at 225)). Although Samesurf alleges that its co-browsing
 23 technology “is a vast improvement over existing technologies” that had performance
 24 and security advantages over other products then currently on the market (*see* Compl.
 25 ¶¶ 58, 60-62), such alleged improvements do not constitute inventive steps, but rather
 26 overcome the *market* challenges Samesurf set out to correct by using only generic
 27 computers and Internet components that perform their ordinary functions. *See, e.g.*,
 28 '591 patent at 2:7-12 and 25:27 (disclosing “there [was] no *effective, fully interactive*

modality” for real time Internet interaction because the prior methods for real-time interaction required “large files or packets and require[d] high levels of bandwidth and computer processing power.”).

Lastly, novelty is different from patent eligibility under step two. “[M]erely reciting an abstract idea by itself in a claim—even if the idea is novel and non-obvious—is not enough to save it from ineligibility.” *Solutran, Inc. v. Elavon, Inc.*, 931 F.3d 1161, 1169 (Fed. Cir. 2019); *Synopsys, Inc. v. Mentor Graphics Corp.*, 839 F.3d 1138, 1151 (Fed. Cir. 2016) (noting that “a claim for a *new* abstract idea is still an abstract idea”). Thus, even if Samesurf claims its alleged improvements are novel under 35 U.S.C. § 102,⁵ this too fails to save the Asserted Claims from claiming ineligible subject matter.

Accordingly, nothing in the Asserted Claims adds an inventive step to the abstract idea of exchanging information for simultaneous interactions. The claims are therefore ineligible under Section 101.

D. The Dependent Claims Remain Directed to the Same Abstract Idea of Sending and Receiving Information for Simultaneous Interactions, and Do Not Add an Inventive Step

Similar to the independent claims discussed above, the focus of the dependent claims remain directed to the same abstract idea of sending and receiving information for simultaneous interaction:

“further comprising receiving an invitation to join the synchronized browsing session.” cl. 2

“wherein the invitation comprises the hyperlink associated with the synchronized browsing session.” cl. 3

“wherein the invitation further comprises a session identifier.” cl. 4

“wherein the invitation is received via: a social network communication; a news feed; an email message; an instant message communication; a micro-blogging communication; a text message communication; or other communication medium.” cl. 5

“wherein information related to the shared user input web browsing

⁵ Intuit does not, of course, agree with such a contention.

1 interaction comprises: form data; java script data; or other web
browsing interaction data.” cl. 6

2 “wherein the shared user input web browsing interaction is depicted in
3 a first web browser window.” cl. 7

4 “wherein non-shared web browsing interactions are depicted in a
5 second web browser window.” cl. 8.

6 “wherein the shared user input web browser action further comprises a
log-in into a restricted-access webpage.” cl. 9.

7 ’591 patent at cls. 2-9.

8 The dependent claims merely add additional token steps to carry out the
9 organized human activity, or use conventional computer and Internet components
10 required to automate and carry out the abstract idea on these devices, which does not
11 save the claim from being abstract. *See Alice*, 573 U.S. at 221-26; *Credit Acceptance*
12 *Corp.*, 859 F.3d at 1055; *Univ. of Fla. Rsch. Found., Inc.*, 916 F.3d at 1367.

13 Additional invitations (cl. 2), and the format in which the invitation is sent,
14 *e.g.*, via email (cl. 5), simply add another step to carry out the claimed abstract idea
15 of sending and receiving information similar to sending and receiving paper mail.
16 *Cf. Symantec Corp.*, 838 F.3d at 1313. Hyperlinks, session identifiers, computer
17 code, and web browser windows are mere computer and Internet tools required to
18 carry out the abstract sending and receiving of information for simultaneous
19 interaction (cls. 3, 4, 6-8), tools that cannot save claims from an abstract idea. *See*
20 *Finjan, Inc.*, 879 F.3d at 1303; *cf. Pragmatus Telecom, LLC*, 114 F. Supp. 3d at 200
21 (collaborative screen sharing is abstract); *Williamson*, 212 F. Supp. 3d at 897
22 (displaying windows on two different computer systems is abstract).

23 The above dependent claims make no mention for how to improve efficiency
24 and bandwidth. *See Two-Way Media Ltd.*, 874 F.3d at 1337. Regardless, improved
25 efficiency and bandwidth are abstract ideas. *See Repifi*, 2022 WL 794981, at *2-3
26 (improved efficiency); *Sensormatic Elecs., LLC*, 2021 WL 2944838, at *3 (improved
27 bandwidth). To the extent claim 9 purports to improve security, such limitation is
28 nonetheless still an abstract idea. *See Innovation Scis., LLC*, 778 F. App’x at 863.

1 No dependent claim adds an inventive step. The dependent claims either add
 2 generic computer and Internet components performing their ordinary functions (cls.
 3 3-9), or add additional well-understood, routine, conventional, and token steps to
 4 carry out the sending and receiving of information for simultaneous interaction (cls.
 5 2, 9). All of which fail *Alice* Step two. *See Alice*, 573 U.S. at 225; *Bilski*, 561 U.S.
 6 at 611-12; *Ultramercial, Inc.*, 772 F.3d at 714-716; *Mortgage Grader, Inc.*, 811 F.3d
 7 at 1324-25.

8 **IV. CONCLUSION**

9 For the foregoing reasons, Intuit requests that the Court dismiss this action
 10 with prejudice under Rule 12(b)(6) of the Federal Rules of Civil Procedure for failure
 11 to allege infringement of a patentable claim under 35 U.S.C. § 101.

12
 13 Dated: May 23, 2022

Respectfully submitted,

14 FENWICK & WEST LLP

15 By: /s/ Michael Sacksteder

16 Michael J. Sacksteder

17 *Attorneys for Defendant*

18 INTUIT INC.

19 **CERTIFICATE OF CONFERENCE**

20 This motion is made following the conference of counsel that took place on
 21 May 16, 2022.