

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

STA GROUP LLC,

Plaintiff,

v.

MOTOROLA SOLUTIONS, INC.

Defendant.

C.A. No. 2:22-cv-00381

DEFENDANT’S REPLY BRIEF IN SUPPORT OF ITS RULE 12(B)(6)
MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM

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MSI submits this reply in support of its motion to dismiss (D.I. 13 (“Mot.”)). Under STA’s admitted view of the claims in its opposition (D.I. 28 (“Opp.”)), there can be no remaining dispute that three asserted patents are directed to human activities and non-patentable under § 101. STA’s counts for all four patents should also be dismissed because STA refuses to provide adequate notice of its claims—a problem that has only grown with STA’s deficient infringement contentions.

I. THE ’664, ’802, AND ’830 PATENTS ARE NOT PATENT-ELIGIBLE

STA’s opposition tries to avoid a decision on § 101 by parroting legal theories but fails to link those theories to any factual allegations in this matter. First, STA repeatedly asserts that MSI’s motion cannot be decided due to alleged “factual disputes” regarding “claim scope.” Opp. at 4-5, 24-25. But STA’s opposition *does not identify a single proposed construction* for any terms in any of the patents, much less explain how any such construction would impact the *Alice* analysis. A hypothetical, non-specific, unidentified claim construction dispute cannot preclude deciding the § 101 issues now. *E.g., Simio, LLC v. FlexSim Software Prod., Inc.*, 983 F.3d 1353, 1365 (Fed. Cir. 2020) (rejecting plaintiff’s argument that the “court erred by determining ineligibility without first conducting claim construction” because plaintiff “has not explained how it might benefit from any particular term’s construction under an *Alice* § 101 analysis”).

Second, as addressed below, STA’s repeated assertions that the patents claim a “technological” solution to a “technological” problem have no support. Even under STA’s own analysis, each patent fundamentally claims a basic human endeavor, and STA makes no allegations countering the clear evidence that the claims are abstract and lack any inventive concept.

A. The Claims of the ’664 Patent Are Patent Ineligible

***Alice* Step 1:** Even STA cannot avoid describing the claims¹ of the ’664 patent as what

¹ STA does not separately address any of MSI’s arguments regarding the remaining claims of the ’664 patent and does not dispute that “Claim 1 is therefore representative.” Mot. at 8-9. Nor does

they are—claims reciting unpatentable and routine human activity. Regarding the alleged “problem” the claims address, STA concedes it is no more than a human (*e.g.*, a “police officer”) “*miss[ing]*” messages on a “non-priority” channel because “the volume” of that channel “may be turned down.” Opp. at 14, 16 (emphasis added). Missing audio messages is not a technological problem—it is a **human** problem. It is also not a problem specific to computer networks, but one that has arisen for humans in the real world in an array of communication contexts (*e.g.*, operators of a switchboard or dispatchers in a call center). *See* Mot. at 3-4.

Nor does STA identify any technological “solutions” to this human problem. As an initial matter, contrary to STA’s assertions, the claims **do not** recite “*automatically*” elevating the priority or “*identifying*” priority messages,” Opp. at 14, 16, much less **how** to perform those steps. The claims are also completely untethered to solving the problem of “missed” messages and do not require any particular type of adjustment to how media is provisioned to ensure that the message not be missed. The claims simply fail to provide “any limiting detail that confines the claim to a particular solution to an identified problem,” and are merely directed to collecting, manipulating, and displaying data, and thus abstract as a matter of law. *Affinity Labs of Tex., LLC v. Amazon.com Inc.*, 838 F.3d 1266, 1269 (Fed. Cir. 2016); Mot. at 5-6.

But setting aside STA’s improper rewriting of the claim language, the claims are also plainly abstract even as STA describes them. According to STA, the claims are directed to the improvement of avoiding “miss[ed]” messages by “identifying priority messages” in a media stream and then “*automatically* elevat[ing] the priority” associated with a media stream. Opp. at 14, 16. But this is the same solution the specification admits had long been conventionally

STA dispute that all claims of the ‘802 and ‘830 patents are linked to the same abstract idea and/or not inventive or distinct from the abstract idea in Claim 1 of those patents. *Id.* at 13-14, 21-22.

performed *manually* by humans, who elevated message priority by adjusting “the volume of each channel.” ’664 patent, 1:33-41; Mot. at 3-5. A patent that seeks to “automate” manual activity “to conserve human resources and minimize errors” is a “quintessential ‘do it on a computer’ patent” directed to an abstract idea. *Univ. of Fla. Rsch. Found., Inc. v. Gen. Elec. Co.*, 916 F.3d 1363, 1367 (Fed. Cir. 2019) (“That the automation can result in life altering consequences is laudable, but it does not render it any less abstract.”).

STA’s comparison of the claims here to those in *SRI Int’l, Inc. v. Cisco Sys., Inc.*, 930 F.3d 1295 (Fed. Cir. 2019), is also inapt. Opp. at 16. In *SRI*, the claims were directed to a network defense system that monitored “network packet data” to detect network activity at the *packet-level*. *Id.* at 1301. These are squarely computer functions that humans cannot and never have been able to perform, manually or automatically. *Id.* at 1304 (“[T]he human mind is not equipped to detect suspicious activity by using network monitors and analyzing network packets as recited by the claims...”). For the ’664 patent, on the other hand, the specification and STA both concede that humans had already conventionally avoided missing messages by manually elevating alerts—which the specification admits can be “any type of message or signal that was intended for one or more users” including “*simple conversational exchanges*” (’664 Patent, 7:41-48 (emphasis added))—long before the alleged invention. Opp. at 15-16 (citing ’664 patent background).

Given STA’s own admissions and description of the purported invention, STA’s attempt to raise ambiguous and unidentified claim interpretation issues is immaterial to the Step 1 analysis, and the Court need not address it. Opp. at 14-15. STA’s assertions are also meritless. MSI does not conflate “an alert,” “media streams,” and “channels” to “mean one thing.” Opp. at 15. As MSI described, the allegedly “inventive concept” of the claims covers a human dispatcher “monitoring media streams” on “radio channels,” “receiving an *alert in media* and then adjusting

how the media is provided”—exactly what the claim says. Mot. at 2, 3 (emphasis added). STA proposes no actual constructions for any term, much less one that impacts the § 101 analysis.

Alice Step 2: STA barely addresses Step 2 for the ’664 patent—because there is no possible inventive concept for these claims. STA asserts, without support, that MSI “fails to address the claimed limitation of elevating a priority associated with the media stream.” Opp. at 22. That is not correct. As MSI specifically explained, and STA does not dispute, the ’664 patent *concedes* that the claimed “elevating” describes nothing more than conventional steps dispatchers would have taken in response to an alerted communication, such as increasing the volume. *See* Mot. at 6-7; ’664 patent, 1:33-41 (describing conventional approach of “manually adjust[ing]” volume). And “where the specification admits the additional claim elements are well-understood, routine, and conventional,” “it will be difficult, if not impossible, for a patentee to show a genuine dispute.” *Aatrix Software, Inc. v. Green Shades Software, Inc.*, 890 F.3d 1354, 1356 (Fed. Cir. 2018).

STA argues that the claims nonetheless are inventive because they require *automatic* elevation of priority as opposed to “static configuration of a channel,” which the specification allegedly describes as inefficient. Opp. at 22-23. But that description can create a factual dispute only to the extent it is captured in the claims. *Two-Way Media Ltd. v. Comcast Cable Commc’ns, LLC*, 874 F.3d 1329, 1338-39 (Fed. Cir. 2017) (“The main problem that [patent holder] cannot overcome is that the claim—as opposed to something purportedly described in the specification—is missing an inventive concept.”). Here, it is not captured at all. The claims do not recite “automatically” elevating priority, and STA makes no other “plausible and specific factual allegations” that the *claimed* steps are inventive. *Int’l Bus. Machs. Corp. v. Zillow Grp., Inc.*, 50 F.4th 1371, 1379 (Fed. Cir. 2022). And even if the recited steps occurred automatically, “mere automation of manual processes using generic computers does not constitute a patentable

improvement.” *Credit Acceptance Corp. v. Westlake Servs.*, 859 F.3d 1044, 1055 (Fed. Cir. 2017).

B. The Claims of the ’802 Patent Are Patent Ineligible

Alice Step 1: STA main argument is that MSI overgeneralizes the claims. Opp. at 10-11. MSI disagrees; but, even adopting STA’s own description, the claims are squarely directed to human activity. STA and the patent concede that the claims address the basic problem of “garbled” communications and operator confusion when messages are “receiv[ed]” by an operator “at the same time.” *Id.* at 9; e.g., ’802 patent, 1:25-26 (“receipt of multiple radio messages at one time creates **confusion for an operator**”) (emphasis added). This describes a problem that humans have routinely faced (and solved) for decades, not a technological problem arising in a unique “technological context,” as STA asserts. Opp. at 10; *see also* Mot. at 10-12.

And regarding the alleged “solution,” far from disputing MSI’s description, STA **agrees** with MSI that the ’802 patent is directed to the idea of “**management** of messages received simultaneously on different channels” and “storing and replaying audio” “that would be obscured.” Opp. at 9; Mot. at 9 (describing alleged improvement as: “when two messages arrive at the same time, instead of just muting one of them, the patent teaches to listen first to the higher priority message, store the other message, and then simply play it later”). STA concedes that a human “operator” conventionally managed messages in the same way, by “mut[ing] all but one channel” to listen to a message, “sav[ing] all other incoming messages,” and “wad[ing]” through lower priority saved messages. Opp. at 9-10. Although STA argues that a human performing the steps in this way is less efficient than a computer (*id.*), that does not save the claims from abstractness. *Univ. of Fla. Rsch.*, 916 F.3d at 1367 (automating manual activity “to conserve human resources and minimize errors” is quintessentially abstract); *Credit Acceptance*, 859 F.3d at 1055.

Thus, even accepting STA’s articulation of the claims, they still are only directed to human organizing activities repeatedly found abstract by the Federal Circuit. Mot. at 10-12. STA’s other

arguments are not relevant under the law. STA asserts that MSI ignores claim language that “enable[s]” the alleged improvement, such as “determining” message priorities based on a “pre-defined parameter” and “determining” if messages overlap. Opp. at 10-11. But MSI addressed these limitations, which recite admittedly conventional components and actions. Mot. at 11-12; ’802 patent, 1:15-31 (describing conventional identification of a channel based on a parameter (e.g., “group,” “locality”) and “overlapping messages”). Reciting conventional components to carry out the abstract idea does not make claims patent eligible. *Alice*, 573 U.S. at 221.

STA’s attempt to analogize the ’802 patent claims to those in *Packet Intelligence LLC v. NetScout Systems, Inc.*, 965 F.3d 1299 (Fed. Cir. 2020), also misses the mark. Opp. at 11-12. In *Packet Intelligence*, the claims related to changing the way a network operates by “examin[ing] packets passing through a connection point on a computer network” to “identify disjointed connection flows to each other”—operations that a human has never, and could never, perform. *Id.* at 1304, 1309-10. By contrast, the ’802 patent claims, at best, use conventional network infrastructure as a tool to solve a human problem in a quintessentially abstract way: helping operators hear messages by storing lower priority messages and playing them later. *See* Opp. at 12. The claims simply do not provide “any limiting detail that confines the claim to a particular solution to an identified problem.” *Affinity Labs*, 838 F.3d at 1269. Determining message priorities “based on predefined parameters” and storing/playing in order of priority are functionally recited abstract concepts analogous to collecting, analyzing, storing, and providing data. *Intell. Ventures I LLC v. Cap. One Bank (USA)*, 792 F.3d 1363, 1370 (Fed. Cir. 2015) (customizing information and presenting it based on particular characteristics is abstract); *Content Extraction & Transmission LLC v. Wells Fargo Bank, National Ass’n*, 776 F.3d 1343, 1347 (Fed. Cir. 2014) (collecting data, recognizing data within the collected data, and storing recognized data is abstract).

Alice Step 2: There is no factual dispute for Step 2. STA argues that MSI ignores a single claim element—“storing at least one message having a lower priority *between the first and the second message* based on the determination; and playing the stored message subsequent to completing playing the message having a higher priority.” Opp. at 22 (emphasis in original). But far from it, MSI explained that the “playing” and “storing” steps are data-processing steps, conventionally performed by a human or generic computer. Mot. at 12. These facts are not disputed; to the contrary, STA *concedes* them, admitting that conventionally an operator “saved” non-priority messages and played them after “wad[ing]” through them. Opp. at 9-10. Even the act of determining, between two messages, which has the lower priority is broadly and functionally recited, requiring nothing more than comparing information without specifying any means for doing so—which fails at step 2. *See Intell. Ventures I LLC v. Symantec Corp.*, 838 F.3d 1307, 1313 (Fed. Cir. 2016) (holding ineligible a claim that recites “determining . . . whether each received content identifier matches a characteristic of other identifiers”). Claims directed to such a long-known conventional human activity as prioritizing a message, playing it, and storing any others received at the same time to play later are not patent eligible. Mot. at 12-13.

C. The Claims of the '830 Patent Are Patent Ineligible

Alice Step 1: STA’s lead argument—that the '830 patent addresses a problem that is “rooted in computer/communications technology” (Opp. at 17)—is refuted by its own statements. STA itself describes the underlying problem of the patent as “missing or overlooking important, time-sensitive information.” *Id.* at 20. That, however, is a problem that humans have long faced.

STA also argues that MSI “overgeneraliz[es]” the claims (*id.* at 18) but ultimately *agrees* with MSI that the '830 patent claims are directed to “providing video feed(s) to a user subject to processes that reduce the amount of unnecessary information received by the user.” *Id.* at 17; *see also* Mot. at 15-16. At its core, this alleged advance merely describes filtering information to

improve human efficiency. That idea is abstract and not patentable. Mot. at 15-16.

STA's argument that MSI ignores five "recitations" in the claims has no merit. Opp. at 19. Reciting a "user policy" that identifies "relevant" video feeds for a user and associates a video feed with a channel (STA's steps (3)-(5), *id.*) is fundamental and generic "filtering," which the patent repeatedly confirms can be performed entirely in the mind of a human dispatcher. Mot. at 16-18. And providing a "frequency" or video feed associated with a geographic zone (STA's steps (1)-(2), *see* Opp. at 19) merely limit the claim to a technological environment and are admittedly conventional data processing steps that cannot save the claims from abstractness. Mot. at 15-16.

The *Core Wireless* that STA cites is distinguishable. There, the claims were directed to "an improved user interface" for small-screened electronic devices and recited "a specific manner of displaying a limited set of information." 880 F.3d 1356, 1362-63 (Fed. Cir. 2018). By contrast, the '830 patent claims purport to improve human efficiency, not any underlying computer technology. And, unlike the *Core Wireless* claims, STA's claims have *no* limitation on the manner of performing any of the steps. Frequencies can be displayed and associated with a video feed in any manner, users can select frequencies in any manner, any user policy can be used to identify an associated video feed, and the video feed can be accessed in any way—including by a human dispatcher performing conventional human activities. *See* '830 patent, cl. 1; Mot. at 17-19. Such a general filtering concept is abstract. *Intell. Ventures I*, 838 F.3d at 1313.

Alice Step 2: STA does not identify any specific claim language that supplies an inventive concept, instead reaching into the specification to argue that a "video feed association module" that "act[s] as a filter" supplies that concept. Opp. at 23. But that module's filtering functionality is the identified abstract idea and cannot supply an inventive concept. Mot. at 19-20.

STA also argues that the claims pass Step 2 because they recite "automated actions," not

“only steps performed by an unaided human.” Opp. at 24. Even assuming the claim *automates* human filtering with a computer, that does not supply an inventive concept, *see Credit Acceptance*, 859 F.3d at 1056-57, particularly here where the purported automation occurs through generic computer components, such as a “communication channel,” a “mobile communication device,” and a “video feed.” *See Intell. Ventures I*, 838 F.3d at 1315; Mot. at 19-20.

II. STA’S INFRINGEMENT ALLEGATIONS DO NOT MEET THE PLEADING REQUIREMENTS OF *TWOMBLY* AND *IQBAL*

STA’s chief argument is that “pursuant to Rule 15(a), its *infringement contentions* are sufficiently detailed to plead infringement by the accused products of each of the asserted patents.” Opp. a 26 (emphasis added). To the extent STA is attempting to rely on its P.R. 3-1 infringement contentions to cure its insufficient Complaint, that is legally improper. *Fractus, S.A. v. TCL Corp.*, No. 2:20-cv-97-JRG, 2021 WL 2483155, at *3 (E.D. Tex. June 2, 2021) (“[T]he Court is perplexed by Fractus’s suggestion that service of infringement contentions would cure a failure of notice.”).

Moreover, STA’s infringement contentions demonstrate precisely why any amendment under Rule 15(a) would be futile here, as those contentions only exacerbate the Complaint’s deficiencies. Instead of providing additional detail (or otherwise addressing the concerns raised in MSI’s motion), STA in its P.R. 3-1 contentions affirmatively *removed* all allegations, all screenshots, and nearly all non-claim language text from the charts previously attached to its Complaint. *See* Ex. A (P.R. 3-1 Contentions); Ex. B (Redlines). What is left are charts stripped bare of *any* factual allegation, legal theories of infringement, citation to any sources, or indicia of any kind to conclude that STA had a reasonable basis to bring this suit. Ex. A. MSI has already informed STA that it intends to move to strike these contentions if not amended. But for purposes of MSI’s motion, the deficiencies further underscore the utter lack of any notice by STA of any infringement theories. MSI cannot know if STA’s deletion of the excerpts from the Complaint’s

claim charts means it is pursuing *different* theories in its contentions or simply broadening its theories to cover additional, unknown and undescribed allegations.

Contrary to STA's argument, the Complaint provides no "descriptive factual allegations" that provide MSI with notice. Opp. at 28. The "descripti[ons]" STA cites are lists of unrelated accused products and a legal conclusion of direct infringement. *Id.* at 29. That is plainly not sufficient. *Bot M8 LLC v. Sony Corp. of Am.*, 4 F.4th 1342, 1355 (Fed. Cir. 2021) (not sufficient to recite "claim elements and corresponding conclusions, without supporting factual allegations"). For the '134 patent, STA additionally points to an undescribed cartoon picture of a satellite as the entire basis for its plainly incorrect assertion that MSI is a satellite carrier. Opp. at 29-30. Tellingly, STA **removed** this irrelevant cartoon from its contentions. *See* Ex. A, '134 claim chart.

Since STA has not identified any plausible basis for infringement of any patent, its Complaint should be dismissed. If anything, the *Fractus* case cited by STA supports that conclusion. Opp. at 28. In *Fractus*, this Court recognized that "the level of detail required in a patent infringement complaint is a context-specific inquiry and will vary based on the nature and complexity of the technology." *Fractus*, 2021 WL 2483155, at *3 (citations omitted). "[S]impler technologies may require less detailed pleadings, while more complex technologies may demand more." *Liberty Peak Ventures, LLC v. Regions Fin. Corp.*, No. 2:21-CV-00417-JRG, 2022 WL 798030, at *1 (E.D. Tex. Mar. 16, 2022). Here, STA itself asserts that the asserted patents involve "complex communication systems" that, according to STA, "follow a path of ever-increasing technological complexity." Opp. at 2, 10. Yet STA refuses to provide **any** infringement allegations for these allegedly complex claims. If STA's hide-the-ball tactics are allowed, it will severely prejudice MSI's ability to satisfy its discovery obligations and prepare its defenses in this matter.

As forth above, and in MSI's Motion, MSI requests that the Court dismiss the Complaint.

Dated: February 7, 2023

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served this 7th day of February, 2023, with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3).

Dated: February 7, 2023

/s/ Robert L. Maier
Robert L. Maier