

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

AIRSPACE SYSTEMS, INC.,

Plaintiff,

v.

AXON ENTERPRISE, INC., and
DEDRONE HOLDINGS, INC.,

Defendants.

Civil Action No. 1:24-cv-01625-CMH-LRV

JURY TRIAL DEMANDED

**AIRSPACE SYSTEMS, INC.'S OPPOSITION TO DEFENDANTS'
RULE 12(B)(6) MOTION TO DISMISS**

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Plaintiff, Airspace Systems, Inc. (“Airspace”), hereby opposes Defendants’ Axon Enterprise, Inc. (“Axon”) and Dedrone Holdings, Inc. (“Dedrone”) (together, “Defendants”) Rule 12(b)(6) Motion to Dismiss (Dkt. Nos. 17, 18) Plaintiff’s First Amended Complaint (Dkt. No. 12).¹

I. INTRODUCTION AND BACKGROUND

Unmanned Aerial Vehicles (“UAV” or “drones”) are constantly in the news, whether it be in the context of their use in overseas conflicts or domestically, where drone swarms of unknown origin have become an almost daily occurrence. However, at the time of the inventions claimed in U.S. Patent Nos. 10,249,199 (the “’199 Patent”), 10,713,959 (the “’959 Patent”), and 10,514,711 (the “’711 Patent”) (collectively, the “Asserted Patents”),² UAVs were having virtually no impact on the daily lives of Americans. Airspace’s founders were pioneers in the UAV field well before currently emerging issues relating to UAV security have become apparent, recognizing early on that such issues needed attention in light of the impending explosion in UAV operation. Indeed, Airspace’s groundbreaking Airspace Interceptor drone was the first fully autonomous artificial intelligence-powered interceptor drone funded by the United States Army. The Airspace Interceptor was inducted into the Smithsonian National Air and Space Museum as a pioneering achievement in artificial intelligence and aeronautics. *See* Dkt. 12 at 5.

The Asserted Patents address two security issues related to the control of the ever-increasing number of UAVs: (1) determining whether a UAV has permission to be in a given airspace; and (2) the ability to operate a UAV beyond the visual line of sight (“BVLOS”) of its operator, including the ability to intercept unknown or unfriendly UAVs. These issues were

¹ Citations to “Mot.” are to Defendants’ Memorandum in Support of Rule 12(b)(6) Motion to Dismiss (Dkt. No. 18). Citations to “FAC” are to Plaintiff’s First Amended Complaint (Dkt. No. 12).

² The ’199 Patent is Dkt. No. 12-1, the ’959 Patent is Dkt. No. 12-2, and the ’711 Patent is Dkt. No. 12-3.

emerging as problems at the time of the claimed inventions. Airspace invented novel solutions to address them, taking into account several constraints including the limited power and compute budget available on small UAVs, and the difficulty of distinguishing authorized and unauthorized UAVs.

With respect to permitting UAVs to operate in a given airspace, previous solutions relating to tracking UAVs in the same way commercial aircraft are tracked were unworkable. For example, the small size of UAVs meant there was insufficient space to affix a tail number – as with commercial aircraft. Further, the fact that UAVs often operate in close quarters, including in a swarm, at significant distance from the ground, made individual identification and authentication through any sort of marking impossible by a human observer. In Airspace’s non-intuitive approach, each UAV acts like a flying wireless node, exchanging information with a ground-based discrimination and authentication system for automatic mitigation by that system. Airspace realized that such “remote ID” technology would be the key to building a system that could actively monitor and control incoming and outgoing drone traffic, including swarms of drones. *See* Dkt. No. 12 at ¶¶ 17-21.

Another issue the Asserted Patents address is BVLOS flight control systems of UAVs, and a UAV’s ability to autonomously complete a desired flight control operation relative to the location of a target where a human controller could not communicate with or see the UAV or target, and to do so using the limited compute budget available on amateur drones at the time. The claimed inventions accomplish this by, for example, applying machine learning technology to multiple streams of video data captured by a UAV to identify a potentially problematic objects in a given airspace and to prioritize certain subsets of that video data corresponding to the object

for further analysis to successfully intercept that object even with limited computing resources. See Dkt. No. 12 at ¶¶ 23-25.

The Asserted Patents each teach specific technical solutions to these emerging issues present at the time of the claimed inventions by claiming specific apparatuses and technical steps to accomplish each goal in a way that discloses a particular technical solution, without claiming the entire field of potential solutions. For these reasons, discussed in detail below, none of the Asserted Patents are directed to abstract ideas and, in any event, each disclose an inventive concept rendering them patent eligible under 35 U.S.C. § 101.

II. LEGAL STANDARD

A. Motion to Dismiss Under Fed. R. Civ. P. 12(b)(6)

On a motion to dismiss under Fed. R. Civ. P. 12(b)(6), the Court “‘must accept as true all of the factual allegations contained in the complaint’ and ‘draw all reasonable inferences in favor of the plaintiff.’” *Kensington Volunteer Fire Dep’t, Inc. v. Montgomery Cniy., Md.*, 684 F.3d 462, 467 (4th Cir. 2012) (quoting *E.I. du Pont de Nemours & Co. v. Kolon Indus., Inc.*, 637 F.3d 435, 440 (4th Cir. 2011)). “[P]atent eligibility may be resolved at the Rule 12 stage only if there are no plausible factual disputes after drawing all reasonable inferences from the intrinsic and Rule 12 record in favor of the non-movant.” *Coop. Ent., Inc. v. Kollektive Tech., Inc.*, 50 F.4th 127, 130, 136 (Fed. Cir. 2022).

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

Under 35 U.S.C. § 101, a patent may be obtained for “any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof,” with the exception that laws of nature, natural phenomena, and abstract ideas do not constitute patent-eligible subject matter. See *Alice Corp. Pty. Ltd. v. CLS Bank Int’l*, 573 U.S. 208, 216 (2014). At *Alice* step one, courts must determine whether the claims are “directed to” a patent-ineligible

concept, such as an abstract idea. *Id.* at 218. Courts must “tread carefully” to focus on the specific claimed solution rather than high level simplifications because “[a]t some level, ‘all inventions ... embody, use, reflect, rest upon, or apply laws of nature, natural phenomena, or abstract ideas.’” *Id.* at 217. Claims are still patent-eligible under *Alice* step two if they include an “inventive concept.” *Id.* at 217-18. “The ‘inventive concept’ may arise in one or more of the individual claim limitations or in the ordered combination of the limitations.” *BASCOM Glob. Internet Servs., Inc. v. AT&T Mobility LLC*, 827 F.3d 1341, 1349 (Fed. Cir. 2016).

C. Presumption of Validity

“A patent is presumed valid, and the burden of establishing invalidity of a claim rests on the party asserting invalidity by clear and convincing evidence.” *Core Wireless Licensing S.a.r.l. v. LG Elecs., Inc.*, 880 F.3d 1356, 1364 (Fed. Cir. 2018) (citing 35 U.S.C. § 282; *Microsoft Corp. v. i4i Ltd. P’ship*, 564 U.S. 91, 95 (2011)). The presumption of validity and the “clear and convincing” burden of proof apply to challenges to patent eligibility under § 101. *See Cellspin Soft, Inc v. FitBit, Inc.*, 927 F.3d 1306, 1319 (Fed. Cir. 2019); *Trs. of Columbia Univ. v. Symantec Corp.*, 425 F. Supp. 3d 601, 612 (E.D. Va. 2019).

III. THE ASSERTED PATENTS ARE EACH DIRECTED TO PATENT-ELIGIBLE SUBJECT MATTER

Each of the Asserted Patents is eligible under 35 U.S.C. § 101 because it is not directed to an abstract idea and also discloses an inventive concept. Thus, while *Alice* step two need not be reached with respect to any of the Asserted Patents, each patent clears the *Alice* two-step hurdle.

- A. **The '959 Patent is Eligible Under 35 U.S.C. § 101.**
- 1. **Under *Alice* Step One '959 Patent Claim 21 is Not Directed to an Abstract Idea**
- a) **Claim 21 is Directed to the Non-Abstract Idea of Secure Two-Way Communications between UAV(s) and a Remote System for Automated UAV Detection, Identification, and Authorization**

Defendants' allegations that the '959 Patent's "advance over the prior art [] is to transmit [an] 'electronic license plate,'" and that the claimed advance of Claim 21 is "communicating identification information," Mot. at 1, 8-9, is an improper overgeneralization; this is clear when Claim 21 is read as a whole and in light of the specification. *See Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1335, 1337 (Fed. Cir. 2016) (cautioning that describing "claims at such a high level of abstraction and untethered from the language of the claims all but ensures that the exceptions to § 101 swallow the rule," and that "the 'directed to' inquiry applies a stage-one filter to claims, considered in light of the specification."); *Cardionet, LLC v. InfoBionic, Inc.*, 955 F.3d 1358, 1367-68 (Fed. Cir. 2020) (courts "consider the claims 'in their entirety to ascertain whether their character as a whole is directed to excluded subject matter'" and "also consider the patent's written description.") (quoting *McRO, Inc. v. Bandai Namco Games Am. Inc.*, 837 F.3d 1299, 1312 (Fed. Cir. 2016)); *Chamberlain Group, Inc. v. Techtronic Industries, Inc.*, 935 F.3d 1341, 1346 (Fed. Cir. 2019).

Claim 21 recites particular limitations for enabling a ground based system to automatically receive trusted information about a tracked UAV or set of UAVs by placing on each: (a) a radio frequency communication antenna; and (b) a radio communication module coupled to the radio frequency communication antenna and configured for (i) transmission of identification information associated with the low-altitude aircraft through a transmitted radio signal that is stored aboard the UAV; and (ii) utilization of a secure identifier and two-way

communication with a remote portable detection system that receives information about each UAV. Claim 21 is not directed to merely a UAV transmitting identification information, rather, as clearly stated in the claim, *besides* transmission of identification information, also claimed is *utilization of a secure identifier and two-way communication with a remote portable detection system that receives information about each UAV.* Such automatically configured UAVs, much like automatically configured wireless communication nodes in a wireless LAN that use secure identifiers and engage in two-way communication with control systems, are the foundation of the trusted and secure two-way communications between the UAV(s) and a remote detection system that does something human operators simply cannot do – near-simultaneously detect, authorize, and receive information about a multiplicity of UAVs. This ability is the very foundation required to secure a particular airspace from pluralities of UAVs.

The '959 Patent solves a specific problem with a unique technical solution. Due to the increased volume of UAVs, because of the wide availability of affordable models, and associated dangers with amateur pilots flying such UAVs, there arose a need to manage this increased UAV traffic. *See* '959 Patent at 1:35-44. Critically, the prior art was bereft of an “analogous identification method or system [to a license plate] for [] UAVs.” *see id.* at 1:45-55. Thus, “an identification solution [was] needed that permits ground-level identification, as well as identification by other aircraft[] of various sizes and altitudes. *Id.* 1:67-2:1. The solution that the '959 Patent describes and claims is the automated gathering of information about a plurality of UAVs – using two-way RF communication and a secure identifier for trusted communication. *See* '959 Patent at 10:20-11:31, 17-17:18-17 (Claim 21); *see also* Dkt. No. 12 at 7-8 (“[A]irspace tracking systems then in existence were wholly unsuited to secure America’s airspaces and the people and property below them from nefarious drones,” Plaintiff’s “patented system provided

for a secure electronic license plate unique to each drone to be transmitted from each drone, and a specialized ground-based drone discrimination system for automatically detecting [and] identifying [the] drones.”).

Defendants’ allegation that “Airspace’s own characterization of its invention as providing ‘electronic license plates’ confirms that the claim computerizes a longstanding human practice,” Mot. at 1, misconstrues Plaintiff’s statement. To the extent the longstanding human practice is to attach a license plate to a vehicle, a conventional license plate does not transmit a signal. Displaying such an ID on a UAV is neither feasible (because it can be too large for the UAV or too small to read, *see* ’959 Patent at 1:50-55) nor useful (because the UAV can be behind the clouds, a building, etc., and may not be visible). Moreover, to the extent a conventional UAV may transmit any information, the UAV communicates only with the UAV operator, and not with another entity.³ The “secure electronic license plate” described in the FAC operates differently; it is based on utilization of a secure identifier and a “two-way communication” where the “identification information” is received from the UAV by “a remote portable detection system,” as Claim 21 recites. This operation simply did not exist before the invention of the ’959 Patent.

For the claimed invention to facilitate identification, “there must be *two-way* trust between the server,” e.g., at a ground station, “and the drone.” ’959 Patent, 10:20-30. The dangers of communications if there is “misidentification or erroneous validation by either the drone, or the ground” station, are critical, including that “a drone that accepts an unverified policy command . . . may result in the drone performing unauthorized commands, or commands

³ Defendants cite the FAC as describing ADS-B as known technology, *See* Mot. at 10, but ADS-B is used by fixed winged aircraft and helicopters and not UAVs. *See* Dkt. No. 12 at 6.

provided by bad actors.” *See id.*, 10:30-41. Moreover, many UAV “signals can be received at the substantially same time by” a ground station that must identify them all, automatically, and should be able to communicate with those UAVs in real time. *See id.*, 6:35-38. To address these challenges, including the rapid movement of a UAV, “an *ad hoc* authorization network connection is required to exchange information.” *Id.* at 10:50-11:4.

The *ad hoc* authorization network allows trusted two-way communication using the claimed “secure identifier.” The specification teaches at least three types of such a secure identifier recognized by both the UAV and the ground (or an airborne) station, namely, the use of a security protocol, a rotated SSID, and a one-time password based SSID. *See id.* at 7:17-31. This is reflected in Claim 21 that recites a “radio communication module [that] is configured to utilize a secure identifier” and that “is configured for two-way communication with a remote portable detection system.” *Id.* at 18:9-12.

The “two-way trusted communications” between a remote detection station and several UAVs using respective “secure identifier[s]” recited in Claim 21 are not using “generic technical components in a conventional way,” *BASCOM*, 827 F. 3d at 1351, because conventional UAVs do not communicate with a remote detection station at all. Rather, it is a technical solution to a recently emerging problem of UAV management. The invention of Claim 21 is thus far from a longstanding human practice. In *Inmar Brand Solutions, Inc. v. Quotient Tech. Inc.*, 730 F.Supp.3d 81 (D. Del. 2024), claims reciting “a computer system configured in a particular way to overcome flaws in prior art systems . . . in ways that humans cannot” were patent eligible. *Id.* at 83. A conventional UAV typically communicates only with the UAV operator. A secure, two-way electronic communication by a UAV with another entity, such as an authority, per Claim 21 was not practiced at all before the Airspace inventions. It allows management of large

volumes of UAV traffic that was not done before the invention of the '959 Patent. *See* Dkt. No. 12 at 63. Moreover, the '959 Patent does not attempt to preempt the field of transmitting identification information from UAVs as Defendants erroneously allege. *See* Mot. at 4. Rather it claims a particular solution to a new problem, where the claimed solution recites facilitating “two-way communication,” which the Remote ID rules promulgated by the FCC do not require. *See* Dkt. No. 12 at 75 (citing 14 C.F.R. 89.105, 89.110, 89.115, 89.305, 89.310, 89.315, 89.320). As such, Claim 21 is directed to a non-abstract idea of secure two-way communications between UAVs and a remote system for automated UAV detection, identification, and authorization.

b) Claim 21 Recites Specific Operations and Not Just a Desired Function/Result

Claim 21 is not a “functional, results-oriented claim.” *See* Mot. at 11-12. In so alleging, Defendants ignore pertinent limitations of Claim 21 including: a “radio communication module coupled to [a] radio frequency communication antenna and configured to transmit identification information ... through a transmitted radio signal,” and that “is configured to utilize a secure identifier” that “is configured for two-way communication with a remote portable detection system,” ‘959 Patent at 18:1-12. According to the ‘959 Patent, the function to be achieved was to solve a *new* technological problem of UAV detection and identification due to the recent prevalence of widespread use of UAVs. *See id.* at 1:66-2:3.

Claim 21 recites more than this result. It recites specific ways to achieve a technical solution, detailed in the specification. Therefore, Claim 21 is not directed to an abstract idea. *See Ecoservices, LLC v. Certified Aviation Services, LLC*, 830 Fed. Appx. 634, 642 (Fed. Cir. 2020) (“we look to whether the claims focus on a specific means or method that improves the relevant technology or are instead directed to a result or effect that itself is the abstract idea,” and “also consider the patent’s written description . . .”) (quoting *Cardionet*, 955 F. 3d at 1368; *Chamberlain*, 935 F.3d at 1346); *Park Assist, LLC v. San Diego County Reg. Airport Auth.*, 402

F. Supp. 3d 956, 963 (S.D. Cal. 2019) (claims patentable where “directed to ‘a specific means or method’ for improving technology, rather than simply directed to an abstract end-result . . .”); *McRO*, 837 F.3d at 1314 (finding patent eligible claims that “focus on a specific means or method that improves the relevant technology . . .”); *DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245, 1265 (Fed. Cir. 2014); *Alice*, 573 U.S. at 225.

“[U]tiliz[ing] a secure identifier” is also not functional language, *see* Mot. at 11, because the ‘959 Patent discloses how a UAV is detected in an automated manner: two-way *trusted* communication between a remote station and a UAV. While UAVs can also be detected in other ways without utilization of secure identifiers – for instance using a one-way signal – Claim 21 identifies a specific manner in which the *two-way communication* is established using “a secure identifier” that may be recognized by both the remote station and the UAV.

In this way, Claim 21 is similar to the claim held eligible in *Ancora*, where the trial court held that using a BIOS, as required by the challenged claims, called for “nothing more than ‘[s]toring data in the memory,’” finding those claims directed to an abstract idea. *Ancora Techs., Inc. v. HTC America, Inc.*, 908 F. 3d 1343, 1346 (Fed. Cir. 2018). The Federal Circuit disagreed, finding that Ancora’s claims were directed to “[i]mproving security [] against a computer’s unauthorized use of a program,” and further that the claimed use of the BIOS was sufficient to provide “the specificity required to transform a claim from one claiming only a result to one claiming a way of achieving it.” *Id.* at 1348-50.

c) Claim 21 Is Readily Distinguishable from Redwood Techs and Prism Techs

Defendants’ arguments that Claim 21 is analogous to claims held abstract in *Redwood Techs* and *Prism Techs*, are also unavailing. Mot. at 12. In *Redwood Techs.*, the court found that the claim was “directed to the longstanding practice of a communication including information about its sender.” *Redwood Techs. v. Netgear, Inc.*, Civil Action 22-1272-GBW, 2024 WL

4591852, at *10 (D. Del. Oct. 28, 2024)). By contrast, Claim 21 is not directed merely to communicating an identifier but to authorizing UAVs and facilitating simultaneous, multiple respective trusted two-way communication between the UAVs and a remote system.

Defendant’s argument that “utiliz[ing] a secure identifier” is analogous to the challenged claim in *Prism Techs* is also incorrect. Mot. at 13. In *Prism Techs*, the claims were “directed to the abstract idea of ‘providing restricted access to resources’” and those claims “recited generic steps typical of any conventional process for restricting access.” *CosmoKey Solutions GmbH & Co. KG v. Duo Security*, 15 F. 4th 1091, 1096 (Fed. Cir. 2021) (quoting *Prism Techs. LLC v. T-Mobile USA, Inc.*, 696 F. App’x 1014 (Fed. Cir. 2017)). In *CosmoKey Solutions*, the Federal Circuit distinguished the claims in *Prism Techs* from those in *Ancora*, *see id.* at 1096-97, where the use of a BIOS provided sufficient specificity to improving computer security such that the claims were not directed to an abstract idea. *Ancora*, 908 F. 3d 1343, 1349. Like the use of a BIOS in the *Ancora* claims, establishing a trusted communication by “utiliz[ing] a secure identifier” is a specific way of facilitating automated detection and identification of several UAVs simultaneously by a remote station. As such, *Redwood Techs* and *Prism Techs* provide no support for the allegation that Claim 21 is directed to an abstract idea.

2. Under *Alice* Step Two ’959 Patent Claim 21 Recites an Inventive Concept

An *Alice* step 2 analysis is not necessary because the ’959 Patent does not claim an abstract idea. *See Ancora*, 908 F. 3d at 1349. Nevertheless, Claim 21 also recites the inventive concept of using “a secure identifier.” Automated detection of UAVs and/or trusted communications between a remote station and several UAVs were neither well-known, nor routine or conventional at the time of the invention. Indeed, the ADS-B signal used by commercial airplanes is a one way communication that does not involve a secure identifier and thus cannot be used for trusted communications required to track a plurality of UAVs, and

merely using an RF antenna to communicate with another device does not utilize a secure identifier. Claim 21 – by contrast – uses identifiers recognized to be secure by both the UAVs and the remote station, a concept not utilized in the relevant art at the time. Importantly, use of trusted communications between a UAV and a ground station is not the only way to identify UAVs. For example, analysis of the audible signature of a UAV – the particular noise its rotors make – may also be used to identify a UAV.⁴

The '959 Patent solves the same problem in a unique and novel way by bringing cyber security concepts to UAV tracking through trusted communications. This innovation is important because, for example, while on-road vehicles can be identified by observing license plates, visual inspection of UAVs that operate BVLOS is impossible. Furthermore, during the normal course of operation a UAV can frequently become visually obscured, e.g., behind the clouds, behind a building, etc. In this case visual identification is not feasible. Thus, the claimed RF-based identification provides a substantial improvement in the technical field of the operation of UAVs and even that of other vehicles. Thus, Claim 21 is eligible under both steps of *Alice*.

B. The '199 Patent is Eligible Under 35 U.S.C. § 101

1. Under *Alice* Step One '199 Patent Claim 1 is Not Directed to an Abstract Idea

'199 Patent Claim 1 discloses a system with interoperating physical components that provide airspace security in an ever-increasing volume of UAV traffic, **including a disruption system that physically takes unwanted UAVs out of the sky**. Bringing the fields of IT and aerial security together, the claimed invention creates a drone firewall akin to IT firewalls we all rely upon daily. *See* '199 Patent at 1:19-36. The claimed system includes an identification system

⁴ Indeed, Dedrone appears to use this technique in one of their patents. *See* U.S. Pat. No. 10,229,329 at 2:4-9, 15-32 (describing systems that “collect and process large amounts of sensor information” including “audio signal data from an audio sensor.”).

coupled to an aerial system, an identification receiver, a permission module, and a disruption system. ’199 Patent Claim 1, 3:25-12:52. These components operate together to solve problems related to securing airspace in light of an ever-increasing volume of UAV traffic. *Id.* at 2:5-26. *See Thales Visionix Inc. v. United States*, 850 F.3d 1343, 1348-49 (Fed. Cir. 2017) (system of physical components achieving a particular result is not abstract); *Google LLC v. EcoFactor, Inc.*, 602 F. Supp. 3d 1265, 1273 (N.D. Cal. 2022); *see also Diamond v. Diehr*, 450 U.S. 175, 187 (1981).

The ’199 Patent solved a critical problem present at the time of the invention concerning the authorization of UAVs to operate in a given airspace. Specifically, UAV airspace traffic had been (and still is) “increasing at an unprecedented rate,” which “raise[d] the need to: monitor airspace for the presence of UAVs, distinguish authorized from unauthorized UAVs, prevent unauthorized UAVs from entering restricted airspace, and/or selectively remove unauthorized UAVs from the airspace.” ’199 Patent at 1:19-25; Dkt. No. 12, ¶ 36 (the ’199 Patent “thus addressed the growing need for a way to monitor the greatly increasing number of operating aerial systems and regulate their entry into a given airspace [to] defend[] an airspace against swarms of drones . . .”). “Conventional UAV prevention and/or removal systems” were inadequate because they were “global” in nature, meaning they “were incapable of distinguishing between authorized and unauthorized UAVs.” ’199 Patent at 1:28-36. Thus, there was a “need in the aerospace field to create a new and useful aerial system discrimination system for **selective removal from and/or permission** into the airspace.” *Id.* at 1:34-36 (emphasis added); *see also* Dkt. No. 12, ¶ 37.

The ’199 Patent provides specific technical solutions to these shortcomings in the prior art by claiming an apparatus that accomplishes selective UAV interdiction. *SAP Am., Inc. v.*

InvestPic, LLC, 898 F.3d 1161, 1167-68 (Fed. Cir. 2018) (a patent does not claim abstract subject matter if it “transform[s] a claim from one claiming only a result to one claiming a way of achieving it.”). Specifically, the ’199 Patent claims “a new and improved way to determine whether [UAVs] have permission to operate in a specific airspace and a preemptively enabled discrimination system for selective removal of aerial systems from an airspace when such aerial systems do not have permission[, a] significant improvement on the then-existing conventional aerial system prevention and/or removal systems which were unable to identify and classify aerial systems and take a defensive action in a reliable and timely manner.” Dkt. No. 12, ¶ 35.

Claim 1 teaches a discrimination system comprising an “identifier transmission system coupled to an aerial system,” an “identification receiver,” a “permission module,” and a “disruption system.” ’199 Patent at Claim 1. As further explained in the specification, the UAV emits a unique system identifier signal, *id.* at 2:10-12; 7:58-8:5, 8:17-23, 8:57-9:5, which the identification receiver receives, *id.* at 4:44-5:19; 5:37-43; 5:66-6:4-19; 6:31-40; 14:31-42; 15:47-61, then a permissions module “determines whether the aerial system 100 has permission” to be within a given airspace, *id.* at 2:6-15; 9:53-10:40; 18:9-13, and if not, the disruption system can activate to disrupt the UAV. *Id.* at 2:5-40; 10:59-64, 11:28-39. Unlike conventional systems, which were “global and incapable of distinguishing between authorized and unauthorized UAVs,” *id.* at 1:28-31, the claimed system discriminates between authorized and unauthorized UAVs, *id.* at 2:43-47, utilizing a unique identifier, *id.* at 7:58-8:16, thus providing a specific technical solution to an existing need. *See Contour IP Holding LLC v. GoPro, Inc.*, 113 F.4th 1373, 1379 (Fed. Cir. 2024) (“To determine the focus of the claimed advance at *Alice* step one, we look to whether the claims are directed to ‘a specific means or method that improves the

relevant technology’ rather than simply being directed to ‘a result or effect that itself is the abstract idea.’”) (quoting *McRO*, 837 F.3d at 1314).

The ’199 Patent also accomplishes multiple tasks a human cannot, including (1) the determination of whether a UAV is authorized to be in an airspace when it is beyond visual line of sight, ’199 Patent at 2:47-51, (2) the timely determination of whether one or more UAVs in a large volume, such as a swarm, are authorized, and (iii) an automated disruption of unauthorized UAV(s) that potentially could be hundreds of meters above the ground. *Id.* at 1:20-35; *see Inmar Brand*, 730 F.Supp.3d at 83 (the claims “are directed to the non-abstract idea of processing coupons with a computer system configured in a particular way to overcome flaws in prior art systems. The system’s configuration reduces coupon fraud and facilitates coupon clearing **in ways that humans cannot.**”) (emphasis added). Indeed, at least the disruption component of Claim 1 highlights its application in the physical world. The disruption system actively intervenes to neutralize unauthorized UAVs using one or more interdiction methods specifically identified in the ’199 Patent. *See* ’199 Patent at 10:56-64 (“[T]he disruption system 105 can include a launching system 303 and an interdiction module 304, which cooperatively function to intercept, then interdict, the aerial system 100.”). Such real-world intervention is accomplished by, *inter alia*, a net, *id.* at 11:40-57, 12:37-49, physical projectiles, *id.* at 11:58-12:3, a laser that burns the UAV out of the sky, *id.* at 12:4-18, or electromagnetic signal, *id.* at 12:19-36. As a result, Claim 1 is not directed to an abstract idea. *See Tobii Technology, Inc. v. Weinblatt*, No. 2:20-cv-08062, 2021 WL 3879132, at *4 (D.N.J. Aug. 30, 2021) (“[A] claim is likely not directed to an abstract idea if it covers a task that a human cannot perform with a pen and paper.”); *Enfish*, 822 F.3d at 1337-39.

Defendant’s summary of the claimed advance as “restricting access to an area based on identification information,” is overbroad. Mot. at 15-16. This is an improper overgeneralization of the claim language. *See Enfish*, 822 F. 3d at 1335, 1337. The ’199 Patent does not broadly claim all restriction of access to a given area based on identification information. UAVs can, for example, be identified by an acoustic signal, which is the way Defendants have tried to solve this same problem, and the way they in fact patented a potential solution to the problem. *See* footnote 4, *supra*. Claim 1 recites specific components – the operation of which is further detailed in the specification – that work together to restrict access to a given airspace in a specific way. Claim 1 is not “recited in a functional, results-oriented way,” Mot. at 20, but instead outlines specific steps and interactions to achieve the intended outcomes, utilizing physical components in a non-conventional manner, including by transmitting a unique aerial system identifier, receiving and relaying the signal to a permission module, determining permissions, and disrupting the aerial system’s operation if the UAV is unauthorized to be in the airspace. *See Contour*, 113 F.4th at 1379; *AMDOCS (Israel) Ltd. v. Openet Telecom, Inc.*, 841 F.3d 1288, 1299-1301 (Fed. Cir. 2016).

Defendants’ reliance on *PerformancePartners* is unavailing. That case concerned a method claim related to monitoring and controlling vehicle access. *PerformancePartners, LLC v. FlashParking, Inc.*, 697 F. Supp. 3d 678, 685 (W.D. Tex. 2023). Noting that the “Supreme Court has [] frequently found that patents directed to a ‘**method** of organizing human activity’ are abstract,” *id.* at 686 (quoting *Alice*, 573 U.S. at 219-20) (emphasis added), the court found that the asserted claim was “not a tangible” system for managing access to a secured parking area, and thus found the claims directed to abstract subject matter. *Id.* at 687. The opposite is true here, where Claim 1 of the ’199 Patent is directed to a “particular **apparatus** that makes an

improvement” to the existing art directed to monitoring UAVs. *See id.* (citing *TecSec, Inc. v. Adobe Inc.*, 978 F.3d 1278, 1293 (Fed Cir. 2020); *Enfish*, 822 F.3d at 1335) (emphasis added). *Prism Techs* also addresses a method claim. *See Prism Techs.*, 696 Fed. Appx. at 1016. In that case, the Federal Circuit overturned a district court finding of an inventive concept at *Alice* step two because “the asserted claims recite no more than . . . perfectly conventional generic computer components employed in a customary manner . . .” *Id.* at 1018. That is far from the case here, where the ‘199 Patent claims a specific technical solution and unconventional use of hardware to accomplish that solution, including by using WiFi signals to transmit unique identification information from UAVs. *See* ‘199 Patent at 2:67-3:7. Accordingly, because the ‘199 Patent claims particular steps to accomplish a concrete, and specific technical solution to an existing problem using physical components in a non-conventional way, it passes muster under *Alice* step one. *AMDOCS (Israel) Ltd.*, 841 F.3d at 1299-1301.

2. Under *Alice* Step Two ‘199 Patent Claim 1 Recites an Inventive Concept

The ‘199 Patent provides a specific and non-conventional technical solution to a problem present in the prior art, and, as such, *Alice* step two need not be reached. Regardless, Claim 1 of the ‘199 Patent discloses an inventive concept, and thus satisfies this second step as well. *BASCOM*, 827 F.3d at 1350-51 (“a claim passes *Alice* step two when it “may be read to improve an existing technological process,” or comprises a “non-conventional and non-generic arrangement of known, conventional pieces.”); *CardioNet*, 955 F.3d at 1368.

The ‘199 Patent more than delivers in this regard at least with respect to the disclosure of a unique system for determining whether one or more UAVs may operate in an airspace using the non-conventional use of hardware components. Importantly, the ‘199 Patent does not purport to claim every method to selectively remove UAVs from a given airspace, but only the specific claimed apparatus that leverages unique identifiers associated with particular UAVs,

accomplished by the novel application of the physical components claimed in the ‘199 Patent in the ordered combination set forth in Claim 1. *See BASCOM*, 827 F.3d at 1349 (“The ‘inventive concept’ may arise in one or more of the individual claim limitations or in the ordered combination of the limitations.”). As such, Claim 1 is not a “classic example of a claim that uses generic computer components to computerize an abstract idea” *See* Mot. at 20-21. It is also not a “buckshot system” – which term Defendants take out of context – but one that selectively “discriminate[s] between authorized and unauthorized aerial systems,” by leveraging a unique identifier rather than the “global” removal systems available at the time of the invention. *See* ‘199 Patent at 1:28-36; 2:42-47. As such, the ‘199 Patent does not merely “computerize [an] abstract idea,” but provides a novel solution to an extant problem in the art at the time.

C. The ‘711 Patent is Eligible Under 35 U.S.C. § 101

Defendant’s oversimplified description of the invention of the ‘711 Patent obfuscates the specific technical solution the ‘711 Patent teaches that renders Claim 20 anything but abstract – a particular technical process that facilitates autonomous flight while conserving UAV computing capacity. *See Enfish*, 822 F.3d at 1337. Defendants’ characterization ignores entire swaths of critical claim language, including the use of machine learning to narrow the video data the UAV needs to process, thus giving it a fighting chance at solving this complicated problem on a limited compute budget. As a result, *Alice* step two need not be reached, but to the extent it is, Claim 20 recites an inventive concept that satisfies that step as well.

1. Under *Alice* Step One ‘711 Patent Claim 20 is Not Directed to an Abstract Idea

Claim 20 of the ‘711 Patent discloses particular steps for performing flight control operations of a UAV, including adjustments to speed and flight path, based on the location of a target that is determined by applying a machine learning model to an image received by a sensor

and determining a three-dimensional relative location of the target with respect to the UAV. *See* '711 Patent at Claim 20. The steps of Claim 20, as detailed in the specification, incorporate specific and non-conventional technical solutions to problems presented by the limited available compute budget on UAVs at the time of the invention. *See Contour*, 113 F.4th at 1379.

In Claim 20, after an image is captured by an image sensor of the subject UAV, a target is detected in the image “by applying a machine learning model to the image to identify a portion of the image that includes the target.” A three-dimensional relative location of the target is then determined with respect to the UAV “by determining a distance to the target based at least in part on the size of the target detected within the image,” and then a flight control operation is performed based on the relative three-dimensional location of the target, which includes “determining a speed adjustment factor based on a magnitude of deviation of a direction of the three-dimensional relative location with respect to a current flight direction of the reference aerial vehicle.” '711 Patent at Claim 20.

The manner in which these specific steps are accomplished is further detailed in the specification. Figure 4 illustrates an embodiment of a process for automatically controlling the flight of a UAV, where after the UAV is navigated to the approximate location of the target's geographical location, *id.* at 15:32-16:10, a relative location of the target is detected using an image captured by an image sensor of the UAV. *Id.* at 16:11-48. “The detection of the target in the captured image may be performed using machine/computer vision.” *Id.* at 16:34-41. A flight control operation can then be performed based on the relative location of the target. *Id.* at 16:49-17:3.

Figure 11 further details this process, showing the “spacio-temporal awareness engine,” of Figure 4 step 406, where multiple camera views are continually processed in parallel path to

prioritize certain areas of the captured images in a way that conserves the UAV's limited compute budget. *Id.* at 21:38-51. This spacio-temporal awareness engine efficiently processes video data to “locate and track items of interest using different processing schemes in view of effectiveness confidence and local computing resources,” *id.* at 22:11-14, and can be implemented by simultaneously leveraging high- and low-resolution image streams where, after an anomaly is detected within the low-resolution stream, the location of that anomaly is used to prioritize the same region in the high-resolution stream for further analysis. *See id.* at Figure 12, 23:38-57; 23:12-24. Courts have recently found claims covering similar concepts to be directed to non-abstract subject matter. *See Contour*, 113 F.4th at 1375-9 (claims to camera configured to generate video streams in high and low quality formats so as not to exceed wireless bandwidth not abstract because “directed to a specific means that improves the relevant technology.”); *VideoLabs, Inc. v. Meta Platforms, Inc.*, 730 F. Supp. 3d 111, 125 (D. Del. 2024) (claims related to “use of spacio-temporal model,” offer “technological improvement by optimizing computer vision with object detection,” thus are not directed to an abstract idea).

The claimed steps of determining a “three dimensional relative location of the target,” with respect to the UAV, using the image of the target “including by determining a distance to the target based at least in part on the size of the target within the detected image,” and the performance of a “flight control operation based on the three-dimensional relative location of the target,” including by “determining a speed adjustment factor based on a magnitude of deviation of a direction of the three-dimensional relative location with respect to the current flight direction,” of the UAV are also further described in detail in the specification. For example, Figure 5 and its associated description explain how a bounding box is used to determine the relative distance to a target before a vector is determined with respect to the target and is then

scaled before being utilized to navigate to the target. *See* '711 Patent at Figure 5, 17:17-18, 42-49, 61-67; 18:12-64; 19:4-14, 45-59. These specific steps to apply a machine learning model to detect a target in the image, before determining the three-dimensional relative location of that target and then performing flight control operations to navigate to it comprise a technical solution to the impediment presented by limited computing resources present on UAVs at the time of the invention. *See id.* at 21:52-60, 22:3-10; 21:35-37.

As such, the invention disclosed in Claim 20 of the '711 Patent represents “a significant improvement” over the conventional technology.” Dkt. No. 12 at 134. Specifically, because of “the limited compute budget available onboard” UAV’s at the time of the invention, UAVs “were not previously able to reliably operate beyond the visual line of sight of the operator,” in part due to “the negative correlation between the robustness of a BVLOS flight control algorithm on the one hand, and the cost and latency of that algorithm per spacio-temporal frame it receives from its cameras or other sensors on the other.” *Id.* The claimed invention allowed UAVs to operate beyond visual line of sight, “notwithstanding the tight restrictions on the compute power available on drones . . .” *Id.* at 135. Such specific problem-solving technical advances are regularly found to be directed to non-abstract concepts. *See Park Assist, LLC*, 402 F. Supp. 3d at 960 (finding asserted patent non-abstract where it discloses “technological improvements” addressing problems in the prior art) (quoting *Alice*, 573 U.S. at 219; *Enfish*, 822 F.3d at 1335); *Jaguar Land Rover Ltd. v. Bentley Motors Ltd.*, 388 F. Supp. 3d 665, 677 (E.D. Va. 2019) (“Claims that improve the functioning of a computer provide a particular means to perform a function . . . are not directed towards an abstract idea.”).

Claim 20 is not written to cover every technique that facilitates autonomous flight, but to a computer program product that provides a particular technical process that facilitates

autonomous flight while conserving scarce computing capacity. Because Claim 20 is directed to a specific improvement, rather than occupying the field of “flight control based on the relative location of a target,” Mot. at 23, Claim 20 is not directed to abstract subject matter. *See Enfish*, 822 F.3d at 1336-1337 (claims “directed to a specific improvement to the way computers operate,” because “the claims are not simply directed to *any* form of storing tabular data, but instead are specifically directed to a *self-referential* table for a computer database.”) (emphasis original); *Thales*, 850 F.3d at 1349 (“Just as claims directed to a new and useful technique for defining a database that runs on general-purpose computer equipment are patent eligible, [] so too are claims directed to a new and useful technique for using sensors to more efficiently track an object on a moving platform.”) (citing *Enfish*, 822 F.3d at 1337-38); *Science Applications Int’l Corp. v. United States*, 135 Fed. Cl. 661, 666-667 (2018) (recognizing that “the Federal Circuit has admonished that just because the claims involve an abstract idea does not mean that they are directed to an abstract idea.”); *AMDOCS (Israel) Ltd.*, 841 F.3d at 1299-1301 (claim directed to computer program product related to enhancing accounting records “entails an unconventional technological solution (enhancing data in a distributed fashion) to a technological problem (massive record flows which previously required massive databases)[, where] claim’s enhancing limitation necessarily requires that these generic components operate in an unconventional manner to achieve an improvement in computer functionality.”).

The specific steps claimed in the ’711 Patent further accomplish something a human cannot do – the autonomous operation of a UAV beyond the visual line of sight to capture a target aerial vehicle once the UAV is in the vicinity of the target. *See Inmar Brand*, 730 F.Supp.3d at 83 (claims “are directed to the non-abstract idea of processing coupons with a computer system configured in a particular way to overcome flaws in prior art systems . . . **in**

ways that humans cannot.”) (emphasis added). More specifically, because a target vehicle can move in three-dimensional space, the interceptor must be able to follow the target and maneuver close enough to be able to take necessary action against the target. ’711 Patent at 3:15-45. As such, “it may not be desirable to manually control the interceptor aerial vehicle to follow the target,” because “once interceptor aerial vehicle 102 is near target aerial vehicle 110, the location data from ground-based sensors may not be accurate or updated fast enough for interceptor aerial vehicle 102 to get close enough to the moving target aerial vehicle 110 to reliably deploy a capture mechanism.” *Id.* at 3:25-27, 4:17-22. The claimed invention allows for autonomous operation of the UAV to bring it close enough to a target to make capture possible where the UAV would not have that capability if operated by a human.

As such, Claim 20 does not merely “automate[] the longstanding, manual process of flight control relative to a target,” Mot. at 23, because the claimed invention allows for autonomous operation of an interceptor UAV to navigate toward a target, including when it is operating beyond visual line of sight of an operator, and there is no record evidence that the process used by human pilots “is the same as the process required by the claims.” *McRO*, 837 F.3d at 1313-14 (rejecting the argument that the challenged claims “‘simply use a computer as a tool to automate conventional activity because there was no evidence in the record that ‘the process previously used by animators [to animate lip synchronization and facial expressions was] the same as the process required by the claims.’”). *Brunswick*, is thus inapposite, because in that case, the court found that the various asserted patents claimed abstract ideas because they claimed, “what humans have done for millennia.” *Brunswick Corp. v. Volvo Penta of the Americas, LLC*, 640 F. Supp. 3d 498, 513, 509, 516, 517, 520 (E.D. Va. 2022). So too with respect to *Geoscope Techs.*, where the court found that the claimed “method for determining the

location of a mobile station,” comprised a “basic function of determining location based on the collection and analysis of data [that] has been performed by humans throughout history.”

Geoscope Techs. Pte. Ltd. v. Google, LLC, 692 F. Supp. 3d 566, 575 (E.D. Va. 2023). Here, Claim 20 discloses technical advances a human cannot accomplish.

2. Under *Alice* Step Two ’711 Patent Claim 20 Recites an Inventive Concept

Claim 20 is not directed to an abstract idea and thus proceeding to *Alice* step two is unnecessary. However, was the court to proceed – and it need not – Claim 20 satisfies step two as well, for much the same reasons as step one is satisfied. “This second step is ‘a search for an inventive concept—*i.e.*, an element or combination of elements that is sufficient to ensure that the patent in practice amounts to significantly more than a patent upon the [ineligible concept] itself.’” *CardioNet*, 955 F.3d at 1368 (quoting *Alice*, 573 U.S. at 217-18). The ’711 Patent provides just that by describing a specific and non-conventional technical solution to a problem related to the limited compute budget available on UAVs at the time of the invention, that includes using a spacio-temporal awareness engine to efficiently locate and track items of interest using different processing schemes to determine a relative three-dimensional location of a target and navigating in relation to the target in a way a human could not. *See BASCOM*, 827 F.3d at 1350–51 (claims “that improve [] an existing technological process” include an inventive concept at step two, and claims that “recite a specific, discrete implementation of the abstract idea” rather than “preempt[ing] all ways of” achieving an abstract idea using a computer may include an inventive concept) (citing *Alice*, 573 U.S. at 221, 223). As such, the ’711 Patent does not use “merely generic computer components,” *Mot.* at 26, but provides a specific technical solution to an existing problem. Defendants’ argument that “[t]he only difference between Claim 20 and the abstract idea is that the claimed invention is automated,” *Mot.* at 26, also falls flat

because of the technical solutions provided and the fact that the '711 Patent claims something a human cannot do. Thus, to the extent *Alice* step two it reached, Claim 20 clears that hurdle.

IV. THE FAC SPECIFICALLY IDENTIFIES THE ACCUSED PRODUCTS AND FUNCTIONALITIES USING THE VERY LANGUAGE DEFENDANTS USE TO DESCRIBE THOSE PRODUCTS

Airspace has put Defendants squarely on notice of the functionality accused of infringing the Asserted Patents by utilizing Defendants' and third-party Skydio's own terminology to identify the Accused Products and by providing dozens, if not hundreds of citations to Defendants' and Skydio's own websites that depict the Accused Products and functionality. *See Robocast, Inc. v. Netflix, Inc.*, 640 F. Supp. 3d 365, 368 (D. Del. 2022). This consistent citation to Defendants' and Skydio's own material identifying the Accused Products and functionality across a 200-plus page complaint is more than sufficient to provide notice under Fed. R. Civ. P. 8.

With respect to the Skydio functionality, that functionality is one element of larger systems provided by Defendants that infringe the Asserted Patents, including for example, Axon Air and/or Axon DFR and DedroneBeyond. The FAC specifically identifies that functionality – including the fact that the Skydio functionality is utilized by Defendants' Accused Products⁵ – using the precise description Skydio uses to describe that functionality on its website. Skydio touts its “advanced autonomous drone technology” (“AADT”) as resulting from an “alliance between Skydio and Axon” that “combines Axon’s expertise in real-time operations and evidence management with **Skydio’s advanced autonomous drone technology** for first responders.” Dkt. No. 12 at 143, 151, 165, 176, 188, 200 (emphasis added); *see* Exhibit 1. Skydio’s description of

⁵ For example, the FAC explicitly states that “one or more Accused Products, e.g., **DedroneBeyond, and Axon Air and/or Axon DFR solutions each utilizes** DedroneBeyond or “**advanced autonomous drone technology**” **provided by Skydio, Inc.** (hereinafter “Skydio AADT”)” Dkt. No. 12 at 137 (emphasis added).

its AADT on its website is accompanied by a picture of the Skydio X10 drone, which is an element of the Skydio AADT, and is identified in the FAC. Dkt. No. 12 at 143, 151, 165, 176, 188, 200; *see* Exhibit 1. The Skydio X10 drone is also explicitly referenced in the FAC as a “component” of the Axon Air product, as set forth in the Axon Air product guide. *See* Dkt. No. 12 at 150, 161, 165, 176, 188, 200; Exhibit 2.

The Skydio X10 drone utilized in Skydio’s AADT, which in turn is used by Defendants in their Accused Products, also uses the Skydio Autonomy functionality that allows the Skydio X10 drone to operate autonomously. This functionality is also specifically identified in the FAC. *See* Dkt. No. 12 at 151 (“[W]e’ve built the skills of an expert pilot into our hardware and software so you can fly further, safer, and better, day or night. It takes the most sophisticated AI and the most advanced sensors in the world to see and solve complex navigation in real time. But that’s the power of Skydio Autonomy . . .”); 167 (the “Skydio Autonomy Engine” includes a “Navigation AI Engine” and “Spatial AI Engine.”); 189 (“An advanced Spatial AI Engine provide [sic] Skydio drones complete awareness of their surroundings.”); 202; Exhibit 3.

Thus, Airspace has identified, to the best of its ability using the information Skydio makes publicly available, the specific Skydio functionality of which it is currently aware that is leveraged by Defendants’ Accused Products. Without the benefit of discovery from Defendants and Skydio, Airspace can do no more than describe Skydio’s accused functionality using the information Skydio makes public. Indeed, if anyone knows more about the operation of the accused Skydio functionality on Defendants’ products, it is Defendants, as they have a partnership with Skydio with respect to this precise functionality. *See* Dkt. No. 12 at 143, 151, 165 (“Skydio’s and Axon’s Integrated Approach to Drone as First Responder Programs . . . A

groundbreaking alliance between Skydio and Axon is revolutionizing how public safety agencies operate”); Exhibit 1.

Courts have found similar descriptions as Airspace provides concerning the Skydio products to be sufficient to identify and put defendants on notice of the accused products. For example, in *Software Research*, the complaint “expressly define[d] the ‘Infringing Products’ as [] ‘web application monitoring and scripting tool software products,’” and made specific reference to the product identifier used by defendant on its website. *Software Research, Inc. v. Dynatrace LLC*, 316 F. Supp. 3d 1112, 1116-1117 (N.D. Cal. 2018). The court found “disingenuous” defendant’s arguments that the complaint “makes no specific factual allegations sufficient to identify an accused product,” or that plaintiff “merely refers to a category of generic functionalities . . . without specifying an actual product,” because defendant’s “**own website** describes [Dynatrace Performance Management] and its functionality.” *Id.* at 1117 (emphasis added). That is the case here, where the FAC identifies the Accused Products using the information found on Skydio’s and Defendants’ websites. *See also Robocast*, 640 F. Supp. 3d at 369 (“Robocast specifically directed its allegations to the products and features it alleges have infringed (the ‘Netflix Internet platform’ and its associated ‘automated playlists’). This is enough for identification purposes; Robocast need not provide, as Netflix incorrectly insists that it must, ‘websites, images, or other support.’”); *Benchwalk Lighting LLC v. LG Innotek Co., Ltd.*, 530 F. Supp. 3d 468, 489 (D. Del. 2021) (rejecting argument that complaint failed to sufficiently identify an accused product because the identification of a “generic title” of a type of flash module “not specific” to defendant along with “a photo image of that product” was enough for defendant to “be able to identify the products-at-issue.”).

The cases cited by Defendants are inapposite. For example, *Adiscov* recognizes that Airspace need only “describe, in general terms, the means by which the patent was infringed,” which Airspace more than accomplishes by identifying Skydio’s accused functionality using Skydio’s own description. *Adiscov, LLC v. Autonomy Corp., Plc*, 762 F. Supp. 2d 826, 829-830 (E.D. Va. 2011). The product description found insufficient in *Adiscov* – “legal discovery software and services” – is clearly distinguishable from Airspace’s description because while the plaintiff in *Adiscov* did not “identify what legal discovery software or services [were] alleged to be infringing,” Airspace does, identifying Skydio’s functionality using the names and descriptions provided by Skydio. *Cf. id.* at 832. *Isaacs* is also distinguishable, because in that case the plaintiff’s description of the accused products was merely “numerous apps on the Google Play Store” and “the infringing apps,” without referring to any specific product. *Isaacs vs. Google, LLC*, No. 9:24-cv-80395, ECF No. 53, slip op. at 13-14 (S.D. Fl. Nov. 8, 2024). By contrast, Airspace refers to specific Skydio products using the descriptions Skydio uses on its website. Indeed, *Isaacs* supports a conclusion that Airspace has sufficiently identified Skydio products as the court in *Isaacs* explained while discussing another case that the inclusion of a picture of the accused product was sufficient to identify the product. *Id.* at 15-16 (discussing *Disc Disease Solutions Inc. v. VGH Solutions, Inc.*, 888 F.3d 1256 (Fed. Cir. 2018)). Here, Airspace has provided multiple pictures and screenshots from Skydio’s website showing the accused functionality, which is more than sufficient for identification purposes under Fed. R. Civ. P. 8.

Airspace identifies the Axon Accused Products with the same level of precision, also using the identical language Axon does to describe those products on its website. Specifically, Airspace cites Axon’s “products” webpage, which identifies “Axon Air” as an Axon product. Dkt No. 12 at 74, 80, 149-150; *see* Exhibit 4. Axon’s “products” webpage explains that the Axon Air

product “[i]mprove[s] situational awareness with real-time drone live-streaming and remote deployment capabilities.” *Id.*⁶ The Axon Air specific webpage further explains that “Axon Air provides secure, wireless livestreaming and remote piloting capabilities, enabling critical situational awareness and improved outcomes,” and also displays an image of the Skydio X10 drone, which upon information and belief, is used in conjunction with the Axon Air product. Dkt No. 12 at 72-73; *see* Exhibit 5.

Airspace also identifies the Axon DFR product precisely as it is identified by Axon on Axon’s website. Axon touts “Axon DFR” as “[t]he complete [Drone as First Responder] solution for public safety,” which “[l]everage[s] the most advanced drone technologies and dedicated support from Axon + Skydio + Dedrone to revolutionize incident response and safeguard your community” – this is precisely the language Airspace references in the FAC. Dkt No. 12 at 138, 157-158, 161, 172, 184, 196; *see* Exhibit 6. Axon also refers to Axon DFR as “Axon’s drone as first responder (DFR) **offering**,” Dkt No. 12 at 140, 148, 157, 171, 184, 195 (emphasis added); *see* Exhibit 7, and the Axon DFR landing webpage also includes a link to the “Axon DFR **Product Guide**.” *See* <https://www.axon.com/dfr> (emphasis added).⁷ Thus, at a minimum, Axon has been put on notice as to the Axon products and related functionality Airspace accuses of

⁶ The image associated with the Axon Air product on the Axon products webpage has changed since the filing of the FAC. The current image associated with Axon Air appears to be a Skydio X10 drone, *see* <https://www.axon.com/products>, while the drone depicted in the FAC appears to be a Skydio X2E.

⁷ The link to the “Axon DFR Product Guide” on <https://www.axon.com/dfr> appears to bring the user to the Axon Air product guide also referenced extensively in the FAC. *See* Dkt No. 12 at 142, 150, 161, 165, 176, 188, 200 (citing https://a.storyblok.com/f/198504/x/f5a31b50a2/axon-air-product-guide-en_us.pdf). Airspace expects that discovery from Axon will bear out whether Axon Air and Axon DFR are different product offerings by Axon, or the same product offering by two different names.

infringement in this case, using the very same language Axon uses to describe these products and functionality on Axon’s website.

Defendants’ citation to *mCom IP* is also unavailing. *See* Mot. at 29. In that case, “[n]either the FAC nor the attached claim chart point[ed] to any HSBC product in reference to claims 2 or 14,” and while the plaintiff “identified the accused product, to wit, ‘HSBC Digital Banking,’ and provided images of that product that appear on the HSBC website[in its opposition to the motion to dismiss,] **that product name does not appear in the FAC.**” *mCom IP, LLC v. HSBC Bank USA, N.A.*, No. 23cv8801, 2024 WL 1704506, at *3 (S.D.N.Y. Apr. 19, 2024) (emphasis added). The opposite is true here, where Airspace specifically identifies the accused Axon Air and DFR products **in the FAC**, thus putting Axon on clear notice of the products and functionality accused of infringement using the product names Axon itself uses on its website’s product page.

Because Airspace has specifically identified the Axon and Skydio products and functionality accused of infringing the Asserted Patents – by specifically naming the Accused Products and functionality using the language Axon and Skydio use, and referring the Defendants to the specific Defendant websites identifying those products and functionality – Defendants are on clear notice of the identity of the Accused Products and functionality, and thus Airspace more than satisfies Fed. R. Civ. P. 8.

V. CONCLUSION

For the foregoing reasons, the Court should deny Defendants’ Motion to Dismiss in its entirety.

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Respectfully submitted,

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