IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

SOUNDCLEAR TECHNOLOGIES, LLC,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 1:24-cv-01283 (AJT/WBP)
	)	
AMAZON.COM, INC., *et al.*,	)	
	)	
Defendants.	)	

ORDER

Plaintiff SoundClear Technologies, LLC ("SoundClear") has filed a Motion to Alter Judgment pursuant to Federal Rule of Civil Procedure 59(e), [Doc. No. 65] (the "Motion"), in which it seeks to alter the Court's November 8, 2024 Order, [Doc. No. 63], which found that the three patents at issue in this action—patent nos. 11,069,337 (the "337 patent"), 11,244,675 (the "675 patent"), and 9,223,487 (the "487 patent")—were invalid for patent protection under 35 U.S.C. § 101 and for that reason, granted the Defendants' Motion to Dismiss, [Doc. No. 31]. In support of the Motion, SoundClear contends that the Court committed clear legal error in its *Alice* Step Two analysis and also that newly discovered evidence creates a factual issue which precludes finding the 337 and 675 patents invalid at this stage of litigation. For the reasons stated below, the Motion is **GRANTED IN PART** and **DENIED IN PART**.

Pursuant to Federal Rule of Civil Procedure 59(e), a court may alter its judgment "to correct a clear error of law or prevent manifest injustice." *Zinkland v. Brown*, 478 F.3d 634, 637 (4th Cir. 2007) (quoting *Pac. Ins. Co. v. Am. Nat'l Fire Ins. Co.*, 148 F.3d 396, 403 (4th Cir. 1998)). In considering a motion under rule 59(e), a district court may consider new evidence if it was previously unavailable at the time of judgment. *Id.*

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With respect to the previously unavailable evidence concerning the 337 and 675 patents, SoundClear points to the deposition testimony of Philip Hilmes, Amazon's Director of Audio Technology, who testified that prior to 2019, he was unaware of anyone on his team at Amazon using voice calculation technology to adjust output volume; he was unaware of anyone using distance calculation in connection with voice control devices because it "wasn't conventional;" and he was unaware of anyone in the industry using distance calculation in voice control devices before 2019. [Doc. No. 70-2] at 11. These aspects of Mr. Hilmes' testimony were not reflected in the factual allegations of SoundClear's Complaint, unavailable at the time the Court considered Defendants' Motion to Dismiss, and, therefore, the Court did not consider that testimony in its prior Order.

At *Alice* Step Two, the question of "[w]hether something is well-understood, routine, and conventional to a skilled artisan at the time of the patent is a factual determination." *Berkheimer v. HP Inc.*, 881 F.3d 1360, 1369 (Fed. Cir. 2018); *see also Aatrix Software, Inc. v. Green Shades Software, Inc.*, 882 F.3d 1121, 1128 (Fed. Cir. 2018) ("Whether the claim elements or the claimed combination are well-understood, routine, conventional is a question of fact. And in this case, that question cannot be answered adversely to the patentee based on the sources properly considered on a motion to dismiss, such as the complaint, the patent, and materials subject to judicial notice."). When considering Mr. Hilmes' testimony and taking all factual inferences most favorably to SoundClear, a plausible claim for patent validity exists as to the 337 and 675 patents.

However, Mr. Hilmes' testimony does not concern the 447 patent, and the Court finds no clear error of law in its prior analysis of the 447 patent. Therefore, there are no grounds to alter the judgment as it relates to the 447 patent. For these reasons, the Court will alter its November 8, 2024 Order to allow SoundClear to file an amended complaint that reflects this newly discovered

evidence as to the 337 and 675 patents (Counts I and II), which will be permitted to proceed, while retaining its previous ruling as to the 447 patent (Count III). For the above reasons, it is hereby

ORDERED that the Motion, [Doc. No. 65], shall be, and the same hereby is, **GRANTED IN PART** and **DENIED IN PART**. The Motion is **GRANTED** to the extent that the Court's Order dated November 8, 2024, [Doc. No. 63], shall be, and the same hereby is, **ALTERED** and **AMENDED** to allow the filing of an amended complaint within fourteen (14) days of the date of this Order to reflect the newly discovered evidence as to Counts I and II, pertaining to the 337 and 675 patents, as to which the Defendants' Motion to Dismiss pursuant to Rule 12(b)(6), [Doc. No. 31], is **DENIED**; and the Motion is otherwise **DENIED** as to Count III, the 447 patent, as to which the Court's Order dated November 8, 2024 shall be, and the same, hereby is, **AFFIRMED**.

The Clerk is directed to forward copies of this Order to all counsel of record and transmit a certified copy of the docket sheet to the United States Court of Appeals for the Federal Circuit.

Alexandria, Virginia
January 10, 2025

Anthony J. Trenga
Senior U.S. District Judge