IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ACCUSEARCH TECHNOLOGIES LLC,	)	
	)	
Plaintiff,	)	
	)	C.A. No. 25-514-GBW
v.	)	
	)	
GOOGLE LLC,	)	
	)	
Defendant.	)	

ACCUSEARCH'S BRIEF IN OPPOSITION TO GOOGLE'S MOTION TO DISMISS UNDER FED. R. CIV. P. 12(b)(6) AND 35 U.S.C. § 101

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I. INTRODUCTION

Robert Osann created improvements to an existing, tangible technology: the Internet search webpage interface. Conventional interfaces suffered technical problems unique to the realm of electronic, keyword searches of Internet content. Mr. Osann provided precise solutions to a number of those problems. His claimed inventions are the opposite of abstract. They were so specific and concrete that Internet search engine providers were able to implement them quickly.

II. FACTUAL BACKGROUND

Mr. Osann struggled with Internet search webpages for years. From 2008 to 2011, he used them to search for market opportunities for his employer, a startup silicon chip producer. FAC Ex. 7 ("Osann. Decl.") ¶¶10-16. Those webpage graphical user interfaces ("GUIs") suffered technical limitations. They "did not present an effective means of warning a user against visiting irrelevant websites." FAC ¶52 (citing '959 patent, 1:53-2:7; Osann Decl. ¶¶13-23). Users often could not identify irrelevant websites without visiting them. FAC ¶53 (citing '959 patent, 11:4-15; Osann Decl., ¶¶14-23). They had no way of knowing whether a search result contained a stated search term. FAC ¶54. Those deficiencies made the search functionality inefficient. *Id*. And they plagued the technical infrastructure, consuming excessive resources and bandwidth. *Id.* ¶¶64-65. So Mr. Osann developed five improvements:

First, he added specific annotations to the search interface. Previous Internet webpage search interfaces focused solely on search *results* returned by the *search engine*: the listings of webpages returned by the search engine. Mr. Osann added something entirely different. He added annotations related to the specific search term elements. Those search terms are *inputs* that the *user submits* to the search engine.[1] He placed annotations close to or among the results themselves.

[1] The claims recite "search term elements." They are referred to here simply as "search terms."

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That creates a specific visual layout; it provides a simple, intuitive, and informative view of which search results might be relevant or not relevant. His annotations are specific: they warn a user that their desired search terms are missing with each affected search result webpage. *Id.* ¶¶67-77.

Second, Mr. Osann's interface created increased flexibility in designing and deploying an interface that gave users control and visibility into the search process. *Id* ¶¶78-81.

Third, Mr. Osann added a specific type of filter to his interface. It gives the *user* control over removing irrelevant search results. *Id.* ¶¶82-88.

Fourth, Mr. Osann's missing term annotations and filter function on the user interface work hand-in-hand. Those improvements, when deployed together, allow users to make quick but informed decisions about whether to remove results that are missing specific search terms. *Id.* ¶¶89-92. For example, if the search page returns a few distracting results with missing terms, as well as other results, the user can quickly remove them. Alternatively, if all the results contain missing-term annotations, the user might keep them if a consistently missing term is less critical. Crucially, the interface empowers the user to make those determinations without spending valuable time and system resources visiting each individual search result. *Id.* ¶¶88, 111.

Fifth, Mr. Osann designed an interface that is ideal for use on devices with smaller screens. *Id.* ¶¶93-98. As many as 50%—or more—of users conduct searches on mobile devices. Mr. Osann's interface allows users to make better use of those small displays. Irrelevant results can be identified quickly and removed (filtered), freeing up valuable screen space.

Those improvements were unconventional at the time. *Id.* ¶¶99-117. Mr. Osann promptly applied for patent protection beginning in June 2011. There were no missing-search-term annotation websites in or before the year 2011—the year Mr. Osann filed his first application from which all the asserted patents descend. *Id.* ¶¶47, 85. The market (including Google) adopted Mr.

Osann's missing-term annotation capability immediately after Mr. Osann's first patent on the technology published in December 2012. It was so successful that Google made it permanent. *Id.* ¶¶124-26. Other Internet search engine interfaces followed. *Id.* ¶¶127-128. Mr. Osann's improvements are now an integral part of many modern search engines, including Google's. *Id.*

III. ARGUMENT

To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, "to state a claim to relief that is plausible on its face." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). Facts alleged in the complaint must provide "more than labels and conclusions, and a 'formulaic recitation' of the elements of a cause of action will not do." *Id.* at 555. The allegations in the complaint are assumed to be true "even if doubtful in fact." *Id*. The facts pled in this case are many and detailed. Google avoids most of them, leaving them uncontested. Its request for dismissal with prejudice is even more conclusory—citing one case with no analysis.

A. *Alice* Step 1: The Challenged Claims Are Directed to a Non-Abstract Improvement to Internet Searching

At *Alice* Step 1, courts "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 merely invoke generic processes and machinery." *CardioNet, LLC v. InfoBionic, Inc.*, 955 F.3d 1358, 1368 (Fed. Cir. 2020) (citation omitted). Courts assess "whether the focus of the claims is on the specific asserted improvement in computer capabilities… or, instead, on a process that qualifies as an 'abstract idea' for which computers are invoked merely as a tool." *Enfish, LLC v. Microsoft Corp*., 822 F.3d 1327, 1335-1339 (Fed. Cir. 2016). Claims directed to a specific implementation of a solution to a problem in the software arts are patent-eligible. *Id.*

The Federal Circuit imposed guardrails on the Step 1 analysis. "[E]ssentially every routinely patent-eligible claim involving physical products and actions," the Court has explained,

"*involves* a law of nature and/or natural phenomenon" in some sense. *Enfish, 822 F.3d at 1335* (emphasis in original). Thus, courts "cannot simply ask whether the claims *involve* a patent-ineligible concept…" *Id.* Instead, courts must apply Step 1 as a "stage-one filter to claims, considered in light of the specification, based on whether their character *as a whole* is directed to excluded subject matter." *Id.* (citations omitted) (emphasis added). Here, the asserted claims are directed to specific, concrete solutions (missing-term annotations, associated filters, etc.) to particularized problems (enumerated in the FAC) that are unique to a specific and bounded technology (Internet search webpages).

1. The Asserted Claims Are Directed to an Enhanced User Interface for Internet Searching

Claims directed to an "'improved user interface for computing devices'" that solve a problem in prior-art user interfaces with a "'specific'" solution are patent-eligible at Step 1. *Data Engine Techs. LLC v. Google LLC*, 906 F.3d 999, 1009 (Fed. Cir. 2018) (quoting *Core Wireless Licensing S.A.R.L. v. LG Elecs., Inc.*, 880 F.3d 1356, 1362 (Fed. Cir. 2018))); *Trading Techs. Int'l, Inc. v. CQG, Inc.*, 675 F. App'x 1001, 1003 (Fed. Cir. 2017). Such claims "improve the functioning of the computer itself," *Alice Corp. Pty. Ltd. v. CLS Bank Int'l*, 573 U.S. 208, 225 (2014), by allowing "users to more quickly access" computer functionality and making it more "efficient," *Data Engine*, 906 F.3d at 1009; *see Core Wireless*, 880 F.3d at 1359. The claims here cover patent-eligible improvements to Internet-search user interfaces under *Core Wireless* and *Data Engine*. They address specific problems in prior-art Internet search interfaces. They solve those problems through specifically recited solutions. They improve the functioning of computers, networks, and interfaces by making Internet searching faster and more efficient.

The asserted claims overcome a "known technological problem" in the prior art. *Data Engine*, 906 F.3d at 1008. They are solutions "necessarily rooted in computer technology in order

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to overcome a problem specifically arising in the realm of [Internet search webpages]." *DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245, 1257 (Fed. Cir. 2014). One might expect search engines to identify webpages matching *all* elements of a user's query. Osann Decl. ¶17; '959 patent, at 2:16-19. For example, a search for "PGA Tour golfer" would return webpages only if they contained all three words. *See id.* In and before 2011, however, it appeared that search engines had begun to perform searches using various "relevance" criteria, returning webpages that did not necessarily include every word in the user's query. Osann Decl. ¶19. That posed problems; the user had no way of determining whether a particular webpage listed in a set of search results contained all the user's search terms without clicking each one and reading through it. FAC ¶54. That was especially frustrating because the search engines were "black boxes"—they provided the user no way to know which terms they had deemed less relevant or which actually appeared in the webpages identified in the search results. Osann Decl. ¶¶19-20.

Mr. Osann solved that problem with a "specific interface" for performing searches, *Data Engine*, 906 F.3d at 1009, and a "particular manner … of presenting" search results, *Core Wireless*, 880 F.3d at 1362. For example, claim 11 of the '959 patent recites an interface that comprises:

- A "search results webpage" displaying "annotated Internet search result[s]"
- Displaying each "annotated Internet search result" as a "search result grouping" that "reference[s] a webpage" and "comprises an annotation and at least one of: a title, an Internet link, an excerpt, or a URL";
- Displaying the "annotation . . . in the search result grouping" for each search result;
- "[W]herein the annotation comprises one or more search term elements missing in the referenced webpage and provides an indication that the automatically annotated Internet search result is less relevant with regard to what the user seeks."

'959 patent, claim 11. The other independent claims, which Google does not address at all, are system or apparatus claims with unconventional tangible elements. FAC ¶¶ 99-119; '001 patent, claim 14 (reciting receiving module, determining module, and annotation module); '937 patent,

claim 15 (reciting servers, user interface, and a display screen with particular elements and orientation); *see Diogenes Limited v. DraftKings, Inc.*, 623 F. Supp. 3d 423, 428 (D. Del. 2022) (declining to find claim representative in view of "diversity of the claims"). The dependent claims provide further specificity. For example, claim 18 of the '959 patent provides that the "annotation comprises text representing at least one search term element in at least one of" several specific "formats." The dependent claims also provide additional interactive elements to enhance the functionality of the search interface. For example, claim 13 of the '959 patent recites that the user interface "further provides a selectable filtering function that, when selected by the user, causes one or more Internet search results referencing web pages that are missing one or more search term elements to be removed from being displayed on the search results webpage." The claims are directed to an improved user interface for doing a specific task (conducting and reviewing keyword search results) over a particular network (the Internet) using a particular tool (a search engine). That is not an abstract idea. *See, e.g., IBM v. Rakuten, Inc.*, 680 F. Supp. 3d 531, 539 (D. Del. 2023).

The challenged claims are just as much of an improvement to computer functionality as the application summary window in *Core Wireless*. There, the Federal Circuit considered the patentability of patents that "disclose[d] improved display interfaces, particularly for electronic devices with small screens like mobile telephones." 880 F.3d at 1359. The invention identified as problematic the conventional user interfaces in which "a user may need to scroll around and switch views many times to find the right data/functionality." *Id.* at 1365, The patents addressed the problem by claiming an application summary window. *Id*. at 1359-60, 1362-63. That window included a limited set of information about the selected application and could be reached directly from the main menu without launching the application. *Id*. The Court rejected the assertion that

the patents merely disclosed the abstract ideas of "an index" or "summarizing information," concluding instead that they were directed to "an improved user interface for computing devices." *Id*. at 1362. The claims improved computer functionality by improving the accessibility and efficiency of the user interface. *Id*. at 1363.

As in *Core Wireless,* the claims here are "directed to a particular manner of summarizing and presenting information in electronic devices," 880 F.3d at 1362. As shown below, claim 11 of the '959 patent is far more specific than the patent-eligible representative claim in *Core Wireless*:

Core Wireless Interface Claim	**'959 Patent, Claim 1 (excerpted)**
1. computing device comprising a display screen, the computing device being configured to display on the screen a menu listing one or more applications, and additionally being configured to display on the screen an application summary that can be reached directly from the menu, *wherein* the application summary displays a limited list of data offered within the one or more applications, each of the data in the list being selectable to launch the respective application and enable the selected data to be seen within the respective application, and *wherein* the application summary is displayed while the one or more applications are in an unlaunched state.	11. A method for providing annotated Internet search results suitable for display to a user on a computing device, wherein the method comprises: . . . *wherein* the transmitted information is suitable for display on a search results webpage on the computing device; *wherein* the automatically annotated Internet search result is provided for display on the search results webpage as a search result grouping referencing a webpage associated with the automatically annotated Internet search result; *wherein* the search result grouping comprises an annotation and at least one of: a title, an Internet link, an excerpt, or a URL; *wherein* the annotation is provided in response to a presence or absence of the one or more search term elements in the referenced webpage; *wherein* the annotation is automatically placed in the search result grouping so that it is associated with the automatically annotated Internet search result; and *wherein* the annotation comprises one or more search term elements missing in the referenced webpage and provides an indication that the automatically annotated Internet search result is less relevant with regard to what the user seeks.

As in *Core Wireless*, the claimed invention here improves efficiency by freeing the user from having to scroll around (or click through) needless information. 880 F.3d at 1363. And, as in *Core Wireless*, the claims "disclose an improved user interface for electronic devices, particularly those with small screens." *Id.* Indeed, the claims at issue explicitly recite small-screen device benefits. *See, e.g.,* '937 patent, claims 6-8, 10-11, 20-22, 24-25, 34-36; '001 patent, claims 4, 9, 14, 22. Those claims, and all others more generally, prevent "users from having to drill down through many layers [webpages] to get to desired data . . ." *Core Wireless*, 880 F.3d at 1363.

Trading Technologies is similarly instructive. There, the Federal Circuit addressed the patentability of "a method for displaying market information" on a GUI. 675 F. App'x at 1003. The claims there described "a trading system in which a [GUI] 'display[s] the market depth of a commodity traded in a market, including a dynamic display for a plurality of bids and for a plurality of asks in the market for the commodity and a static display of prices corresponding to the plurality of bids and asks.'" *Id*. (internal citations omitted). The Federal Circuit concluded that "the claimed GUI method imparts a specific functionality to a trading system" and was directed to specific problems in the art—for example, "when a trader attempt[ed] to enter an order at a particular price, but misse[d] the price because the market moved before the order was entered and executed." *Id*. at 1002-1006. Helpfully, the Court described the applicable § 101 precedent, stating that "[p]recedent has recognized that specific technologic modifications to solve a problem or improve the functioning of a known system generally produce patent-eligible subject matter." *Id*. at 1004-05.

The district court's reasoning in *Trading Technology*—which the Federal Circuit upheld—applies directly to the patents at issue: the challenged patents "solve[d] problems of prior graphical user interface devices . . . in the context of computerized trading[] relating to speed, accuracy and

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usability." 675 Fed. Appx. at 1004. So too here, the patents solve the problems of prior GUIs in the context of general internet searching relating to speed (e.g., finding results more quickly), accuracy (e.g., identifying or eliminating irrelevant results), and usability (e.g., with specific approaches such as identifying missing terms and providing a filter to remove irrelevant results).

Data Engine is also on point. That case involved claims concerning "a method of implementing a notebook-tabbed interface, which allows users to easily navigate through three-dimensional electronic spreadsheets." 906 F.3d at 1003. The patents explained that the "complex commands" required to navigate those spreadsheets "diminished the utility and ease of use of th[e] technology." *Id.* at 1002. The Federal Circuit reversed the district court's finding of patent-ineligibility. It found that the representative claim was "directed to a specific method for navigating through three-dimensional electronic spreadsheets." *Id*. at 1008. It thus "provide[d] a specific solution to then-existing technological problems in computers and prior art spreadsheets." *Id*. They addressed the technical problems associated with prior art spreadsheets "in a particular way—by providing a highly intuitive, user-friendly interface with familiar notebook tabs…." *Id*. at 1008. The court concluded that the claims recited "a specific structure (i.e., notebook tabs) within a particular spreadsheet display that performs a specific function (i.e., navigating within a three-dimensional spreadsheet)." *Id*. at 1011. The asserted claims here are *even more* specific and concrete. They provide a simpler, more efficient means of navigating through an Internet search results interface. They address technical problems with prior search page interfaces, such as the lack of information as to whether keywords are present in a given search result grouping. The structure is specific (search groupings with precise associated annotations) within an Internet search display that performs a specific function (navigating users to relevant results). The asserted claims are not directed to an abstract idea.

2. Google's Contrary Arguments Oversimplify the Claims and Ignore the Well-Pleaded Allegations of the First Amended Complaint

Google's motion suffers numerous foundational problems.

First, Google reduces the claims to such a high level of abstraction that they become "'untethered from the claim language.'" *Sec. First Innovations, LLC v. Google LLC*, No. 2:23-cv-97, 2023 U.S. Dist. LEXIS 205040 at *51-52 (E.D. Va. Nov. 15, 2023) (quoting *Enfish*, 822 F.3d at 1337). Google posits a contrived version of "representative" claim 11 of the '959 patent that eviscerates the invention. According to Google, the claims are directed to:

> 1. A method comprising
> receiving a search request;
> performing an Internet search; and
> automatically annotating results.

Opening Br., 3-4, 11-12. That claim would cover all manners of performing an Internet search and providing annotated results. The AccuSearch claims "require[ ] more." *Sec. First*, 2023 U.S. Dist. LEXIS at *51-52 (citing *TecSec, Inc. v. Adobe Inc.*, 978 F.3d 1278, 1295 (Fed. Cir. 2020)). They recite a *specific way* in which the user interface is arranged and a *specific structure* to the claimed annotations. Those specifics demonstrate that Google's discussion of how searches are "conducted" is misguided. Opening Br., 6. The claims do not purport to improve how the Internet search engine logic works—or how results are "transmitted." They recite improvements to the user interface: how the claimed annotations are generated and what they represent.

Second, Google's analogies are unavailing. Opening Br., 1, 7, 15, 18-20. The Federal Circuit cautions against such inapposite analogies. "[W]hether or not a particular claim is abstract can feel subjective and unsystematic, and the debate often trends toward the metaphysical, littered with unhelpful analogies and generalizations." *CLS Bank Int'l v. Alice Corp. Pty*, 717 F.3d 1269, 1277 (Fed. Cir. 2013); *Sec. First*, 2023 U.S. Dist. LEXIS 205040, at *40-42 (rejecting Google's

"tortured" analogy in a "virtually nonsensical" context). For that reason, "it is not enough to 'merely trace the invention to some real-world analogy.'" *Broadband iTV, Inv. v. Amazon.com, Inc.*, 113 F.4th 1359, 1367 (Fed. Cir. 2024) (citation omitted). Google's analogies fail regardless. It analogizes the claims to conversing with a librarian. But librarians do not provide listings of potential results based on a list of search terms, where each result may contain less than all the search terms. Google's analogy proves too much: *Any* interaction with a computer can be superficially analogized to a conversation with a human.

Third, Google ignores the vast majority of the allegations in the FAC. Opening Br., 8. The FAC includes over 100 paragraphs of detailed allegations, supported by a 48-paragraph inventor declaration. Tellingly, Google's motion addresses only three paragraphs of the former and nine paragraphs of the latter. *Id.* (citing FAC ¶¶48-50 and Osann Decl. ¶¶8, 23-30). Paragraphs 48-50 of the FAC introduce the "technological improvements to Internet search webpages and GUIs." Yet Google makes no reference to the portions of the specification cited in those paragraphs ('959 patent, 2:52-57, 3:63-65, 5:7-36, and Fig. 2) or ¶¶14-22 and 31-48 of the Osann Declaration. Similarly, paragraphs 8 through 34 of the Osann Declaration lay out a lengthy and detailed description of the "Problems with Prior-Art Internet Search Webpages (User Interfaces)." Those paragraphs are then referenced and directly addressed in the FAC. *See* FAC at ¶¶51-65. But again, Google's motion fails entirely to address those allegations.

Google then asserts that the claims are "devoid of the 'technological improvements' asserted in the FAC." Opening Br., 9. Google's arguments fail semantically and logically. It asserts that annotating a search result to indicate "search term elements [that are] missing in the referenced webpage" (*see, e.g.,* FAC ¶¶153-54) somehow fails to warn a user that the website is irrelevant. Opening Br., 10. Or that a "filtering function" that removes webpages with missing search term

elements (*see, e.g.,* FAC ¶155) somehow fails to separate out irrelevant results. Or that these functions did not remedy the exact problems Mr. Osann faced when using conventional internet search pages. *See, e.g., id.* ¶¶66-98; *id.* Osann Decl. (¶¶8-48).

The Court must accept as true the well-pleaded allegations in the FAC and the supporting facts in the attached Osann Declaration. *Aatrix Software, Inc. v. Green Shades Software, Inc.*, 882 F.3d 1121, 1126-1127 (Fed. Cir. 2018) (reversing dismissal without leave to amend because "patentees who adequately allege their claims contain inventive concepts survive a § 101 eligibility analysis under Rule 12(b)(6)"). And courts in this District routinely deny motions to dismiss in which the FAC attaches a declaration that plausibly alleges facts relevant to the claims and the § 101 inquiry. *See, e.g. Kajeet, Inc. v. Gryphon Online Safety, Inc.,* No. 19-2370 (MN), 2021 U.S. Dist. LEXIS 37473, *6, 19-20 (D. Del. Mar. 1, 2021) (denying dismissal in light of expert declaration incorporated into the complaint because "whether the claim elements and their ordered combination is simply well known, routine and conventional is a question of fact"). *State Farm Mut. Auto. Ins. Co. v. Amazon.com, Inc.*, No. 22-1447-CJB, 2024 WL 4104133, at *6 (D. Del. Sept. 6, 2024) (denying motion to dismiss "in light of the intrinsic record and the Wicker Declaration").[2] This Court should too.

Fourth, Google is mistaken in asserting that user-experience improvements are not patent-eligible. Opening Br., 9 (citing, *e.g.*, *Customedia Techs., LLC v. Dish Network Corp.*, 951 F.3d 1359, 1365 (Fed. Cir. 2020)). While improved user experience "*without more*" is not sufficient,

[2] The cases cited by Google do not suggest otherwise. In *Vilox*, the plaintiff attached an expert declaration to an *opposition brief*, not to the complaint. *Vilox Techs., LLC v. Salesforce, Inc.*, No. 23-05047-AMO, 2024 WL 2807924, at *2 n.1 (N.D. Cal. May 31, 2024) (citing opposition brief ECF 77); *accord Aftechmobile Inc. v. Salesforce.com, Inc.*, 2020 WL 6129139 (N.D. Cal. Sept. 2, 2020) (disregarding a declaration not attached to complaint and inventor notes that were not tied to an inventive concept in the claims in any well-pleaded allegations).

Customedia, 951 F.3d at 1365 (emphasis added), an "improved display interface that allow[s] users to more quickly access" computer functionality is a patent-eligible invention, *Data Engine*, 906 F.3d 1008-09 (citing *Core Wireless*, 880 F.3d at 1363). Google relies heavily on the non-precedential *IBM* case. It is inapplicable for the sole reason that the plaintiff pled itself out of court. The plaintiff relied on an "allegation of inventiveness" that the court determined was "not tied to the claims or the specification." *IBM v. Zillow Grp., Inc.*, 2022-1861, 2024 U.S. App. LEXIS 546, *11 (Fed. Cir. Jan. 9, 2024). Here Google has not developed its argument that the claims fail to capture the benefits discussed in the specification. Indeed, the color-coded claims provide a guide to the limitations that are recited in examples in the specification. *Compare* FAC ¶¶153-155, 191-193, 229-231, 267-268 (annotations in red) *with* FAC ¶¶67-77, 117; FAC ¶¶154, 192, 230, 268 (descendent webpages in blue) *with id.* ¶¶78, 117; FAC ¶¶155, 193, 231, 267 (filtering limitations in purple) *with id.* ¶¶82-88. Similarly, the dependent claims recite advantages associated with small screen devices identified in the specification. *Compare* '937 patent, claims 6-8, 10-11, 20-22, 24-25, 34-36; '001 patent, claims 4, 9, 14, 22 *with* FAC ¶¶93-98. As are claims that recite the compounded benefits of dual functionality between missing-search-term annotations and filters. *Compare, e.g.,* '937 patent, claim 1 *with* FAC ¶¶89-92. The *IBM* court also relied on a lack of "specific technique" or "specific implementation" that is unquestionably present in the claims here.[3]

[3] Google asserts, via footnote (Opening Br., 10 n.4), that over-inclusivity in searches, separating out results, and making better use of smaller displays are the same thing. That assertion fails both semantically and logically. Over-inclusivity is a problem associated with the search engine logic. FAC ¶¶60-63. Mr. Osann solved that problem with missing-term annotations and filtering. Separating out results is a user-controlled function; a *user* chooses which results to filter out. And small screens are more difficult to navigate, since the display area is limited. Thus, the annotations and filtering present more concise information (e.g., about missing terms) that fits more easily on the screen and user-controlled filtering puts the user in control of reducing irrelevant information that can dominate screen space.

Fifth, Google fails to address *Core Wireless* and *Data Engine*. Its application of other authorities is superficial and inapt. In *Broadband iTV, Inc.*, the specification explained that the claims were directed to organizing content based on metadata; they were "*not* directed to an improved structure or function of a user interface." 113 F.4th at 1368-69 (emphasis added). The specification of the asserted patents, by contrast, makes clear that the claims are directed to a "user interface for a search engine." '959 patent, 5:10-11; *see id.*, abstract. Moreover, unlike in *Broadband iTV*, there is extensive evidence in the FAC—the allegations of which must be taken as true on a motion to dismiss—that the claimed invention provided a technological solution to the problems of prior-art search. The claims here recite "technological improvements to Internet search webpages and GUIs." FAC ¶48 (quoted portion); *id.* ¶¶66-98 (reciting additional supporting facts). Google relies on another *Trading Technologies* case: *Trading Techs. Int'l, Inc. v. IBG, LLC*, 921 F.3d 1378, 1381 (Fed. Cir. 2019). The claims in that case did *refer to* "graphical user interface[s]," but they were *directed to* data manipulation. *Id.* at 1384. The claims were focused on the content of information (trading data), not the interface itself. *Id.* Mr. Osann's claims, by contrast, are agnostic to the content of the user searches. They improve the specific manner in which an Internet search webpage interface operates. They do not extend beyond that.

Sixth, Google fails to demonstrate claim 11 of the '959 patent is representative of all 112 claims of the *four* Asserted Patents. Google was required to provide "at least *some* meaningful analysis for *each* of the challenged claims," but relegated its entire analysis of the other 111 claims to a footnote. *See Cronos Techs., LLC v. Expedia, Inc.*, No. 13-1538-LPS, 2015 U.S. Dist. LEXIS 118976, at *8-9 (D. Del. Sept. 8, 2015) (emphasis in original).

B. Even if the Asserted Claims Are Directed to an Abstract Idea, They Recite Inventive Concepts That Render Them Patent-Eligible

If the court determines the claims are directed to an abstract idea at Step 1, the court turns to Step 2 of *Alice*. At Step 2, the court decides whether the claim's elements include an "inventive concept sufficient to transform the abstract idea into a patent-eligible application." *Alice*, 573 U.S. at 221 (quotation omitted). One must consider "the elements of each claim *both* individually and as an ordered combination to determine whether the additional elements transform the nature of the claim into a patent-eligible application." *CardioNet*, 955 F.3d at 1368 (emphasis added). The Federal Circuit has made clear that claims that "recite a specific implementation of the abstract idea that purports to solve a problem unique to the Internet," unique to a "computer," or unique to another technological problem, are patent-eligible under § 101. *Weisner v. Google LLC*, 51 F.4th 1073, 1085-86 (Fed. Cir. 2022); *Cosmokey Sols. GMBH & Co. KG v. Duo Sec. LLC*, 15 F.4th 1091, 1097, 1099 (Fed. Cir. 2021); *BASCOM Glob. Internet Servs. v. AT&T Mobility LLC*, 827 F.3d 1341, 1351 (Fed. Cir. 2016). Thus, Step 2 "requires determining whether additional substantive limitations narrow, confine, or otherwise tie down the claim so that, in practical terms, it does not cover the full abstract idea itself." *CyberFone Sys., LLV v. CNN Interactive Group, Inc.*, 558 Fed. Appx. 988, 992 (Fed. Cir. 2014). Moreover, "it will ordinarily be desirable—and often necessary—to resolve claim construction disputes prior to a § 101 analysis, for the determination of patent eligibility requires a full understanding of the basic character of the claimed subject matter." *Bancorp Servs., LLC v. Sun Life Assurance Co. of Can.*, 687 F.3d 1266, 1273-74 (Fed. Cir. 2012).

Step 2 is complex and highly fact-specific. "The question of whether a claim element or combination of elements is well-understood, routine and conventional to a skilled artisan in the relevant field is a question of fact." *Berkheimer v. HP Inc.*, 881 F.3d 1360, 1368 (Fed. Cir. 2018);

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35 U.S.C. § 282; *Core Wireless*, 880 F.3d at 1364. "*Any* fact . . . that is pertinent to the invalidity conclusion must be proven by clear and convincing evidence." *Berkheimer*, 881 F.3d at 1368 (emphasis added). It is reversible error to "ignor[e] the principle. . . that factual disputes about whether an aspect of the claims is inventive may preclude dismissal at the pleadings stage under § 101." *Cellspin Soft, Inc. v. Fitbit, Inc.*, 927 F.3d 1306, 1318 (Fed. Cir. 2019). The allegations in the FAC make clear that there is, at a minimum, a fact dispute about whether the asserted claims recite patent-eligible inventive concepts.

1. The Claims Recite Multiple Transformative Inventive Concepts

Step 2 cannot be addressed in the superficial manner Google attempts. It requires that the elements of the claim be considered both individually and as an ordered combination to determine if they "transform the nature of the claim" into a patent-eligible application. *Alice*, 573 U.S. at 209. The AccuSearch claims do just that. The patented inventions constitute specific, practical solutions to a problem unique to the Internet. More particularly, they are unique to the technological problem of returning and presenting relevant results of an Internet search on an Internet search webpage GUI, while alerting the user to the results that may not be relevant.

In that *BASCOM*, the Court determined that a "specific method of filtering Internet content cannot be said, as a matter of law, to have been conventional or generic." *BASCOM*, 827 F.3d at 1350. Similarly, here, neither the specific GUI recited, specific method of presenting annotated results (e.g., identifying missing terms), nor using those annotations to filter content were conventional or generic. *See* Section II *supra*.

Importantly, the claims at issue pass muster under *BASCOM* even *if* each element were conventional. In *BASCOM*, the Federal Circuit agreed with the district court that "filtering content [wa]s an abstract idea," but "disagree[d] with the district court's analysis of the ordered combination of limitations . . . [i]n light of *Mayo* and *Alice* . . . ." *BASCOM*, 827 F.3d at 1348-

1349. "The inventive concept described and claimed in the [] patent is the installation of a filtering tool at a specific location, remote from the end-users, with customizable filtering features specific to each end user." *Id.* at 1350. That installation of the filtering tool at a specific location would not have altered the "standard" ways the individual elements operated, but altered how the ordered combination of limitations, together, operated. The unconventionality came in the form of the *implementation* of the abstract filter, which improved the system overall. *Id.* at 1349-52. Likewise, even *if* the individual claim elements here were not inventive, their combined arrangement and implementation is. It was not conventional to tie annotated search results to filtering technology—much less the innovative annotations that alert the user to which search terms are "missing."

Weisner v. Google is also instructive. 51 F.4th at 1084. The Federal Circuit court addressed claims "directed to creating and using travel histories to improve computerized search results." The Court determined that the "claims recite[d] a specific implementation of the abstract idea that purports to solve a problem unique to the Internet. . . ." *Id.* at 1085. The court relied upon the implementation of the abstract concept to find the claims eligible at Step 2:

> Rather, the [Second Amended Complaint] and the patent specification allege that it is the specific implementations for *using the travel histories to prioritize the order of the search results* that operate *differently than conventional methods* and *solve an internet-centric problem*, as further described below.

Id. at 1086, n.3 (emphasis added). The claims at issue exceed that result. They recite limitations that are inventive all on their own. One is a specific type of annotation used in connection with search result groups on an Internet search webpage GUI. Others are filters that are tied to those specific annotations. Those filters result in removing specific webpages from the GUI: those that are missing one or more search terms elements. Neither such element is conventional. FAC ¶¶99-117. They solve the Internet-centric problem of over-inclusive and irrelevant results. *See* Section II *supra*. They unquestionably present results differently than conventional methods; that is,

presenting specific annotations of missing-terms close to the search results. *Id.* They provide a GUI that allows the user to filter internet search results based upon the missing terms. *Id.* The *Weisner* court also relied upon the specific manner in which the claims were implemented: "[T]he claims' specificity as to the mechanism through which they achieve improved search results . . . is sufficient." *Weisner*, 51 F.4th at 1085. The claims at issue are even more specific. They recite a GUI with specific annotations placed in specific locations on a GUI. Those annotations disclose text, they disclose specific words, and those words must be drawn from a narrow set: words for which a user searched that do not appear in one of the webpages.

2. Google's Caselaw Is Inapposite[4]

Google again relies heavily on the *IBM* case. Those claims were far less specific and inventive than the claims at issue. They did not relate to any specific application. And the patentee's position was doomed from the beginning: because the "allegations of inventiveness [we]re not tied to the claims or the specification." 2024 U.S. App. LEXIS 546, at *3-4, 11. Further, differentiating *Weisner*, the court concluded that the claims recited only "a simple conceptual description of an improvement." *Id.* *10; *id.* *12 (claims "d[id] not contain any specific mechanism" to "improv[e] a user's experience when viewing search results"); *id.* at *13 (The patent "contained no specific, discrete implementation…"). Google also asserts that "*IBM* provided at least ***some*** explanation as to how the annotated response set was generated—*i.e.,* by

[4] Google asserts that the claims recite "insignificant post-solution activity." Opening Br., 12, 16. The insignificant post-solution activity prohibition arose from the Supreme Court's seminal *Parker v. Flook* case. 437 U.S. 584, 589-90 (1978), which stated that a patent agent cannot circumvent the eligibility law by writing an insignificant step into a claim, one that occurs after the actual inventive steps, if those steps otherwise cover a purely mathematical formula (abstract concept). *Id.*; *Bilski v. Kappos*, 561 U.S. 593, 610-11 (2010). That argument does not apply here. The inventive aspects of the claims (e.g., the missing-term annotations and related filtering) *are* the recited steps. No post-solution activity is required—or alleged—to change that analysis.

mapping a user-specific data vector to the search results." Opening Br., 12 (emphasis in original). That is wrong. The *IBM* claim simply labeled a function an "ordering and annotation function" for "mapping the user context vector . . . ." It did not provide any detail as to how the function worked, what the "annotation" was, or whether the term "annotation" was anything more than an arbitrary designation. The Court agreed. *IBM*, 2024 U.S. App. LEXIS 546, at, *13. The information contained in the recited vector could have been *anything*.

The AccuSearch claims are different. They recite precisely what the annotations contain: e.g., a URL to a webpage returned from an Internet search and missing search terms. The missing-term element can only be one or more of a few things: one or more of the search terms the user had entered in an Internet search bar. And the generated result is binary: either a term is present or it is not. The claims state how to create it: use a single logic command to determine whether a search for each term in a given webpage gets a hit. The claims at issue are more analogous to the eligible claims in *Weisner*. The claims recite a specific implementation. They recite what exact information must be displayed on a specific Internet search webpage GUI. That GUI is tied to a specific technology: Internet search engines and the data they produce. The patents' specification explains how the inventions embodied by these claims set forth an "inventive concept" and how they are improvements to the technological process in existence at the time of the invention. In turn (and as required for a step 2 analysis), the claims specifically recite the many improvements and advantages described in the patent, including an increase in speed and efficiency in providing relevant search results and the efficiency created by identifying the relevant search results to prevent a user from visiting irrelevant websites.

3. Dependent Claims

Google addresses the dependent claims in passing, conclusory fashion. Opening Br., 14-16. It does not address the specific manner in which the missing-term annotations, filters, or

descendent webpage claims provide additional benefits. *See* FAC ¶¶89-92. Google also reduces entire claims to mere labels like "filtering." Opening Br., 15. But even that is not enough to succeed. The claim in the *IBM Corp. v. Zynga Inc.* case Google cites *only* recited a filter: "filtering a database of promotions based upon the user's search query." 642 F. Supp. 3d 481, 492 (D. Del. 2002). The claims at issue do more. *See, e.g.,* p. 5-6 *supra*. They are tied to the missing-search-term annotation. They advance that annotation by allowing a user to filter based upon it. Unlike in *Zynga*, the claims here recite an ordered combination that never existed before. FAC ¶¶ 89-92. They are more like *Bascom* where the inventive concept arose from "a filtering tool at a specific location . . . with customizable filtering features specific to each end user." The *Bascom* claims did more than "merely recite the abstract idea of filtering content along with the requirement to perform it on the Internet, or to perform it on a set of generic computer components." *Id*. at 1350. They certainly did *not* "preempt all ways of filtering content on the Internet [but recited] a *specific*, *discrete* implementation of the abstract idea of filtering content." *Id.* The claims here are even more *specific* and *discrete* than the *Bascom* customizable filter. They filter a specific thing: webpage results that do not contain one or more search term elements.

Google's argument as to the descendent page claims is similarly conclusory. Opening Br., 16. It does not explain why or how providing annotations related to a descendent webpage is a post-solution activity. Google ignores the fact that the dependent descendent page claims are even more specific, even more targeted, and even more limited than the independent claims. And it does not even address the inventiveness of the dependent claims addressing small screen devices.

IV. CONCLUSION

For the foregoing reasons, the claims of the subject patents are directed to patent eligible subject matter and are not invalid under §101. Google's motion to dismiss should be denied.

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