IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

VOXER, INC. AND VOXER IP LLC,	)	
	)	
Plaintiffs,	)	
	)	C.A. No. 25-873-GBW
v.	)	
	)	
GOOGLE, LLC AND YOUTUBE, LLC,	)	
	)	
Defendants.	)	

OPENING BRIEF IN SUPPORT OF DEFENDANTS' MOTION TO DISMISS PLAINTIFFS' COMPLAINT

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Dated: September 24, 2025

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Pursuant to Federal Rule of Civil Procedure 12(b)(6), Defendants Google LLC and YouTube, LLC (collectively, "Google") respectfully move to dismiss all of Plaintiffs Voxer, Inc.'s and Voxer IP LLC's (collectively, "Voxer's") claims because the Asserted Patents are directed to patent ineligible subject matter under 35 U.S.C. § 101. Google also moves to dismiss Voxer's claims of willful infringement and pre-suit indirect infringement for failure to state a claim.

I. NATURE AND STAGE OF PROCEEDINGS AND BACKGROUND

Voxer sued Google in July 2025 alleging infringement of five related patents sharing a common specification: U.S. Patents 10,142,270 ("the '270 patent"); 10,511,557 ("the '557 patent"); 11,146,516 ("the '516 patent"); 11,777,883 ("the '883 patent"); and 11,658,929 ("the '929 patent") (collectively, the "Asserted Patents"). D.I. 1. Voxer's '270, '557, '516, '883, and '929 patents claim priority to a June 2007 provisional application, and issued in 2018, 2019, 2021, 2023, and 2023, respectively. Voxer accuses Google's YouTube Live video service ("the Accused Product") of infringement. YouTube hosted its first public livestream, the YouTube Live event, in 2008. In 2011, YouTube made livestreaming capabilities available to select users, eventually rolling the feature out to all users on the platform. In 2012, YouTube livestreamed the U.S. presidential debate to millions of Americans.

All claims of the Asserted Patents are directed to receiving, displaying, converting, storing, and transmitting digital video. Specifically, the Asserted Claims recite transmitting a video message[1] from a sending device[2] to one or more receiving devices[3] over an established "network" based on generic "identif[ying]" "information" sent from the sending device. Using conclusory,

[1] The '270 patent uses "video communication." The other Asserted Patents use "video message."
[2] The '270 patent uses "sending communication device." The '557 and '516 patents use "sending device." The '929 patent uses "first device." The '883 patent uses "first client device."
[3] The '270 patent uses "second communication device." The '557 and '516 patents uses "recipient device." The '929 patent uses "second device[]." The '883 patent uses "second client device."

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result-oriented language, the claims contemplate allowing the video message to be received by the receiving device while it is still being transmitted by the sending device, and without first setting up an "end-to-end connection" between the sending and receiving device.

Claim 34 of the '270 patent, included in Appendix A, recites these features, and the other four Asserted Patents are variations on this theme. The claims of the '557 patent recite generating "degraded versions" of the "video media of the video message," and then "selecting" and "transmitting" a particular "degraded version" based on "ascertained bandwidth." The '516 patent recites "segment[ing]" the "video media of the video message" into a "plurality of segments." The '883 and '929 patents recite allowing users to contribute "additional messages" to the "multi-media messaging conversation" and displaying the additional messages.[4] The Asserted Patents contemplate allowing the video messages to be received in real-time or "time-shifted" mode.

Voxer previously asserted the '270 and '557 patents against Meta in *Voxer, Inc. v. Meta Platforms, Inc.*, 2023 WL 2806283, at *10 (W.D. Tex. Feb. 21, 2023) ("*Meta*"). The district court in *Meta* found the '270 patent directed to patent-eligible subject matter because "[a]t *Alice* Step One . . . the '270 Patent is directed to improvements to communications systems rather than an unpatentable abstract idea." *Id.* at *12.[5] Just days earlier, however, the Federal Circuit decided *Hawk Tech. Sys., LLC v. Castle Retail, LLC*, 60 F.4th 1349, 1357 (Fed. Cir. 2023), a key case holding that claims—like those asserted here—directed to "receiving, displaying, converting, storing, and transmitting digital video 'using result-based functional language'" are directed to an abstract idea and therefore invalid under § 101. *Hawk Tech* was not addressed in the district court's

[4] Voxer acknowledges that there is no meaningful distinction between the claims of the '929 and '883 patents, using ***identical*** language to describe both patents. *Compare* D.I. 1 ¶ 61 ('883 patent) *with id.*, ¶ 67 ('929 patent).

[5] Meta did not challenge the patent-eligibility of the '557 patent.

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decision and the parties settled before the Federal Circuit had the opportunity to consider the appeal. *Voxer, Inc. v. Meta Platforms, Inc.*, 2024 WL 493256 (Fed. Cir. Feb. 8, 2024).

II. THE ASSERTED PATENTS ARE INVALID UNDER 35 U.S.C. § 101

Voxer alleges that Google infringes five patents that share a specification and claim nothing more than receiving, displaying, converting, storing, and transmitting digital video using result-based functional language without the requisite inventive concept. Courts have repeatedly invalidated patent claims just like Voxer's, and for good reason: "Abstract ideas" are not inventions—they are the "basic tools of scientific and technological work" and are therefore not eligible for patent protection. *Mayo Collaborative Servs. v. Prometheus Lab'ys, Inc.*, 566 U.S. 66, 71 (2012). The legal question of patent eligibility involves a two-step inquiry under *Alice Corp. Pty. Ltd. v. CLS Bank Int'l*, 573 U.S. 208, 217-18 (2014).

Step One. Step one asks whether the claims are "directed to" a patent ineligible concept, such as an "abstract idea." *Id.* At this step, a court need not take the complaint's allegations as true, since "*Alice* step one presents a legal question that can be answered based on the intrinsic evidence." *CardioNet*, *LLC v. InfoBionic, Inc.* 955 F.3d 1358, 1372 (Fed. Cir. 2020). *Alice* step one involves "look[ing] to whether the claims in the patent focus on a specific means or method, or are instead directed to a ***result or effect*** that itself is the abstract idea and merely invokes ***generic processes and machinery***." *Two-Way Media Ltd v. Comcast Cable Commc'ns, LLC*, 874 F.3d 1329, 1337 (Fed. Cir. 2017) (emphases added); *Affinity Labs of Tex., LLC v. DirecTV, LLC*, 838 F.3d 1253, 1257 (Fed. Cir. 2016). This analysis is independent from the analysis of "whether the prior art demonstrates that the idea or other aspects of the claim are known, unknown, conventional, unconventional, routine, or not routine." *CardioNet*, 955 F.3d at 1372.

The patent-ineligibility of "abstract ideas" "embodies the longstanding rule that an idea of itself is not patentable." *Alice*, 573 U.S. at 218 (cleaned up). Applying this principle, the Federal

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Circuit has repeatedly struck down patents directed to "collecting," "analyzing," "transmitting," and "displaying" information, despite the patents being limited to "particular content." *See, e.g.*, *Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1353 (Fed. Cir. 2016) (electric grid information); *Affinity* Labs, 838 F.3d at 1258 (regional broadcast television); *Chamberlain Grp., Inc. v. Techtronic Indus. Co.*, 935 F.3d 1341, 1346 (Fed. Cir. 2019) (garage door information); *Two-Way Media*, 874 F.3d at 1337 (Fed. Cir. 2017) (audio and video information); *Hawk Tech.*, 60 F.4th at 1357 (digital video). Combinations of abstract ideas are likewise unpatentable: "[a]dding one abstract idea . . . to another abstract idea . . . does not render the claim non-abstract." *ChargePoint, Inc. v. SemaConnect, Inc.*, 920 F.3d 759, 771 (Fed. Cir. 2019) (alterations in original).

While claims directed to specific improvements to computer functionality *may* be patent eligible, the step one analysis "'must focus on' the claim language." *Hawk Tech*, 60 F.4th at 1357 (quoting *ChargePoint*, 920 F.3d at 769). "Even a specification full of technical details about a physical invention may nonetheless conclude with claims that claim nothing more than the broad law or abstract idea underlying the claims." *ChargePoint*, 920 F.3d at 769. "[R]esult-focused, functional . . . claim language," *i.e.*, claims that do not explain *how* to achieve a claimed result or alleged benefit, are a hallmark of patent-ineligible claims. *Elec. Power Grp.*, 830 F.3d at 1356.

Step Two. If the claims are directed to patent-ineligible subject matter the analysis proceeds to *Alice* step two: "whether the claims contain an 'inventive concept' to 'transform' the claimed abstract idea into patent eligible subject matter." *Ultramercial, Inc. v. Hulu, LLC*, 772 F.3d 709, 715 (Fed. Cir. 2014) (quoting *Alice*, 573 U.S. at 221). Because the Federal Circuit has "repeatedly held" that "invocations of computers and networks that are not even arguably inventive are 'insufficient to pass the test of an inventive concept,'" part of the *Alice* step two inquiry is to

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determine whether the claims "require[] anything other than off-the-shelf, conventional computer, network, and display technology for gathering, sending, and presenting the desired information." *Elec. Power Grp.*, 830 F.3d at 1355. As the Federal Circuit has made clear, however, even "adding novel or non-routine components is not necessarily enough to survive a § 101 challenge." *ChargePoint*, 920 F.3d at 773. "Instead, the inventive concept must be 'sufficient to ensure that the patent in practice amounts to significantly more' than a patent on the abstract idea." *Id.*

Claims that "merely require generic computer implementation, fail to transform [an] abstract idea into a patent-eligible invention." *Alice*, 573 U.S. at 221. At step two, courts must accept well-pleaded allegations that "features of a patent are inventive," "[b]ut the district court need not accept a patent owner's conclusory allegations of inventiveness." *IBM v. Zillow Grp., Inc.*, 50 F.4th 1371, 1379 (Fed. Cir. 2022). Thus, only "plausible and specific factual allegations that aspects of the claims are inventive are sufficient." *Id.* Conversely, reliance on limitations that "use functional language, at a high level of generality and divorced from any computer technology, to recite the claimed functions," accompanied by allegations that such limitations are inventive, are insufficient. *Id.* at 1379-80. The Federal Circuit looks to previous cases addressing "similar . . . limitation[s]" to assess whether an alleged "inventive concept" is sufficient under step two. *Id.*

A. The Representative Claims of the Asserted Patents

"Limiting the analysis of a § 101 challenge to representative claims is proper when the claims at issue are 'substantially similar and linked to the same' ineligible concept." *Mobile Acuity Ltd. v. Blippar Ltd.*, 110 F.4th 1280, 1290 (Fed. Cir. 2024). In its Complaint, Voxer alleges that the Asserted Patents are patent-eligible with reference to a representative claim in each patent: '270 patent, claim 34; '557 patent, claim 1; '516 patent, claim 1; '883 patent, claim 1; and '929 patent, claim 1 ("Representative Claims"). D.I. 1 ¶¶ 40, 49, 55, 61, 67. In this Motion, Google likewise treats these claims, which are included in Appendix A, as representative of the

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eligibility of the Asserted Patents.

Voxer alleges that the Asserted Patents all "solve[] similar problems" and does not identify any dependent claim limitations as significant to patent eligibility. *Id.* ¶¶ 48, 54, 60, 66. The remaining claims add nothing to the Representative Claims apart from generic and result-oriented functionality involving collecting, organizing, transmitting, and displaying information (*e.g.*, notifying a recipient of a video, storing a video on the sending device, transcoding or encrypting a video) without explaining *how* these functions are achieved ('270 patent: claims 1-16, 18-28, 30-33, 35-46, 48-56, 58-66; '557 patent: claims 2-22, 24-43, 45-50, 52-57, 60-103; '516 patent: 2-8, 10-17; '929 patent: claims 2-25, 27-31; '883 patent: claims 2-65), or generic hardware such as "servers" performing the claimed functionality in their conventional way ('270: claims 17, 29, 47, 57; '557 patent: claims 23, 44, 51, 58-59; '516 patent: claims 9, 18; '929 patent: claim 26). At best, these claims simply recite patent-ineligible results of the abstract idea embodied in the claims. *See Two-Way Media*, 874 F.3d at 1337 (claims directed to a result or effect of an abstract idea are not patent eligible); *infra* § II.B.2.

B. *Alice* Step One: The Claims Are Directed to an Abstract Idea

Each of the Representative Claims is directed to receiving, displaying, converting, storing, and transmitting digital video. *See* App. A. A large and growing body of caselaw confirms that such claims are directed to abstract ideas. For example, as the Federal Circuit explained in *Hawk Tech*, claims directed to "displaying images, converting them into a format, transmitting them, and so on" are ineligible for patent protection, 60 F.4th at 1357, as are, for instance, claims directed to "the recording, storing, delivering, and deleting of media content on a mobile device," *ClearDoc, Inc. v. RiversideFM, Inc.*, 2022 WL 606698, at *5 (D. Del. Feb. 22, 2022).

Faced with this reality, Voxer employs a variety of linguistic formulations to claim its putative inventions. But whether the claims recite the "receiving," "using," "storing,"

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"generating," "selecting," "transmitting," "delivering," or "rendering" of information, the conclusion is the same: The claims are directed to an abstract idea, "excess verbiage" notwithstanding. *Intellectual Ventures I LLC v. Capital One Fin. Corp.*, 850 F.3d 1332, 1339 (Fed. Cir. 2017); *see also Elec. Power Grp.*, 830 F.3d at 1353-54 (the fact that claims are directed to collecting, organizing, and displaying a particular kind of information "does not change its character as information" and are abstract).

To be sure, "[i]n cases involving software innovations, th[e] [step one] inquiry often turns on whether the claims focus on specific asserted improvements in computer capabilities or instead on a process or system that qualifies an abstract idea for which computers are invoked merely as a tool." *Uniloc USA, Inc. v. LG Elecs. USA, Inc.*, 957 F.3d 1303, 1306 (Fed. Cir. 2020). And Voxer, for its part, asserts the conclusion that these patents are directed to "novel and unconventional improvements to the way computers operate through specific techniques for streaming media over networks." D.I. 1 ¶¶ 40, 49, 55, 61, 67. But more than Voxer's say-so is required to proceed to discovery, *see Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009), and, in any event, its description of the claimed subject matter underscores that the patents are directed to receiving, displaying, converting, storing, and transmitting digital video. Indeed, Voxer's Complaint identifies five allegedly "[n]otable innovations" in the claims that support the patent-eligibility of the claims:

> [i] the video communication can be ***rendered*** at the recipient's communication device even while the video communication is still being ***transmitted*** by the sending communication device [D.I. 1 ¶¶ 40, 49, 55, 61, 67 (emphases added).]
>
> [ii] the ***use of an intermediate server infrastructure*** to ***store*** the video communications as they are being sent permits the ***delivery*** of video communications in a time shifted manner and in the absence of an end-to-end connection which is required for conventional video communication methods [*Id.* ¶¶ 40, 49, 55, 61, 67 (emphases added).]
>
> [iii] the ***generation and transmission*** of appropriate degraded versions of video communications [*Id.* ¶ 49 (emphasis added).]

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> [iv] the ***use of video segments*** to the claimed process [*Id.* ¶ 55 (emphasis added).]
>
> [v] the allowance of ***multimedia communication*** amongst client devices during the claimed process [*Id.* ¶¶ 61, 67 (emphasis added).]

As described below, these "innovations" amount to nothing more than a combination of abstract ideas, which are individually and collectively unpatentable. *ChargePoint*, 920 F.3d at 771.

1. "Rendering" a video stream while it is still being "transmitted" by a sending device (All Asserted Patents)

Regarding Voxer's allegations involving "rendering" and "transmitting" video, the Federal Circuit recently held that claims directed to "the abstract idea of 'storing and displaying video'" are not patent eligible. *Hawk Tech.*, 60 F.4th at 1356. In *Hawk Tech*, the asserted claims involved a method for viewing live video streams and recited steps of "receiving," "displaying," "converting," "storing," and "transmitting" digital video over a network. *See id.* at 1353. In particular, the *Hawk Tech* claims recited "receiving video images," "digitizing any of the images not already in digital form," "displaying one or more of the digitized images," "converting one or more of the video source images into a selected video format," "storing at least a subset of the converted images," "providing a communications link," "receiving . . . a request to receive one or more specific streams of the video images," "transmitting . . . a version of one or more of the video images," and "displaying only the one or more requested specific streams of the video images." *Id.* at 1357. The Federal Circuit held such claims to be "directed to a method of receiving, displaying, converting, storing, and transmitting digital video 'using result-based functional language.'" *Id.*

As the court explained, the claims were "similar to those [the Federal Circuit] ha[s] found to be directed to abstract ideas," such as claims directed to "'encoding and decoding image data and . . . converting formats, including when data is received from one medium and sent along through another.'" *Id.* (quoting *Adaptive Streaming Inc. v. Netflix, Inc.*, 836 F. App'x 900, 903

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(Fed. Cir. 2020)). The Federal Circuit rejected the patentee's contention that the claims were directed to "a solution to a technical problem, specifically a multi-format digital video product system capable of maintaining full-bandwidth resolution while providing professional quality editing and manipulation of images." *Id.* The court concluded that the claims, which simply recited "converting information from one format to another"—with no "special data conversion" or explanation of "how the alleged goal of 'conserving data bandwidth while preserving data' [wa]s achieved"—were "recited at such a level of result-oriented generality that those claims amount[] to a mere implementation of an abstract idea" and "directed to an abstract idea." *Id.* at 1357-58.

Hawk Tech does not stand alone. Other decisions likewise have held that claims directed to "rendering" a video stream while it is still being "transmitted" by a sending device are abstract. In *Two-Way Media*, the patent-ineligible claims were directed to methods for delivering "real-time streaming media" over a network. 874 F.3d at 1335. In *Affinity Labs*, they were directed to "wirelessly communicating regional broadcast content to an out-of-region recipient." 838 F.3d at 1258. In *ClearDoc*, they were directed to, *inter alia*, "[s]et[ting] up livestream between a person with a smartphone and a second person." 2022 WL 3355960 at *3. In *Weple IP Holdings LLC v. Meta Platforms, Inc.*, they were directed to "coordinating video messages with comments and live streaming." 2025 WL 1194056, at *9-10 (W.D. Wash. Apr. 24, 2025). In *US Pat. No. 7,679,637 LLC v. Google LLC*, they were directed to "a 'web conference system' allowing for an application to 'share computer screen video' and other data; enabling 'storage means for recording' said video and data; and a 'second client application' enabling another participant to sense said live and previously recorded data." 713 F. Supp. 3d 1024, 1039 (W.D. Wash. 2024), *appeal docketed*, No. 24-1520 (Fed. Cir. Feb. 27, 2024). In *Safecast Ltd. v. Google, LLC*, they were directed to providing

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time-shifted local broadcasts and advertisements while "automating compliance with . . . broadcast regulations." 703 F. Supp. 3d 1041, 1043, 1045 (N.D. Cal. 2023).

Voxer's claims bear a striking resemblance to those at issue in *Hawk Tech*, and they are likewise directed to the abstract method of "receiving, displaying, converting, storing, and transmitting digital video 'using result-based functional language.'" 60 F.4th at 1357. And, as in the cases above, Voxer's claims contain no recitation of a "specific implementation," such as a "special data conversion," to achieve the claimed "enabling [of] the video communication to be at least partially rendered at the second communication device while the video communication is transmitted by the sending communication device." '270 patent, cl. 34; *see also* '557 patent, cl. 1; '516 patent, cl. 1; '883 patent, cl. 1; '929 patent, cl. 1. Instead, the claims simply recite that such transmission is "enabl[ed]." *Id.* This language epitomizes the "result-oriented generality" that the Federal Circuit consistently has struck down as being a "mere implementation of an abstract idea." *Hawk Tech*, 60 F.4th at 1358; *Two-Way Media*, 874 F.3d at 1335; *Affinity Labs*, 838 F.3d at 1258; *ClearDoc*, 2022 WL 606698 at *3.

2. Using an intermediate server (All Asserted Patents)

Voxer next asserts that the use of an intermediate server "permits the delivery of video communications in a time shifted manner and in the absence of an end-to-end connection which is required for conventional video communication methods." D.I. 1 ¶ 40. Many of Voxer's claims do not reference an intermediate server, but even if they did, the idea of routing a video broadcast through an intermediate server for "time shifting" has repeatedly been found to be abstract.

Again, *Hawk Tech* is dispositive. There, the claims recited routing video through an intermediate "storage device." 60 F.4th at 1353. The Federal Circuit explained that simply reciting the "storing[] and transmitting" of "digital video" using "result-based functional language" fell squarely within the realm of abstract ideas, and that the recitation of an intermediary "storage

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device" required little more than "conventional computer and network components operating according to their ordinary functions." *Id.* at 1358-59; *accord New Millennium Software Int'l, L.L.C. v. Phantom Auto Inc.*, 2023 WL 8866584, at *1 (N.D. Cal. Nov. 9, 2023) (claims using "networked servers" to transmit real-time video from a robot to a user's device were "directed to the abstract idea of interactive telepresence"). Other cases confirm that routing a communication through an intermediate server is abstract and non-inventive. *Two-Way Media*, 874 F.3d at 1334–35, 1337, 1340 ("receiving and transmitting a real-time media stream from an intermediate server"); *see also Adaptive Streaming*, 836 F. App'x at 903 (receiving video, transcoding and storing the video into multiple formats, and broadcasting the transcoded videos to multiple devices); *ClearDoc*, 2022 WL 3355960 at *4 (combining local recording and livestreaming); *US Pat. No. 7,679,637 LLC*, 713 F. Supp. 3d at 1040-41 ("time-shifting operations" performed through the use of intermediate servers).

As for Voxer's alleged associated benefits, neither the ability to provide hybrid "real-time" and "time shifted" video nor "the absence of an end-to-end connection" between the sender and receiver could support a finding of patent eligibility here. *See, e.g.*, D.I. 1 ¶¶ 38-40, 49, 55, 61.

First, courts including the Federal Circuit have held that claims directed to both "real-time" and "time-shifted" video are abstract. *E.g.*, *Hawk Tech*, 60 F.4th at 1357-58; *US Pat. No. 7,679,637 LLC*, 713 F. Supp. 3d at 1040-41; *Safecast*, 703 F. Supp. 3d at 1043, 1045. Voxer acknowledges that both real-time and time-shifted communications existed well before the Asserted Patents. D.I. 1 ¶ 38. But even if the idea of combining real-time with time-shifted communication was somehow novel, the resulting combination of two abstract ideas is still abstract. *ChargePoint*, 920 F.3d at 771-72.

Second, the "absence of an end-to-end connection" between the sending and receiving

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devices is simply the consequence of using an intermediate server to route data in a network. Claiming the result or effect of an abstract idea does not make the claims any less abstract. *Two-Way Media*, 874 F.3d at 1337; *EveryMD.com, LLC v. Amazon.com, Inc.*, 2017 WL 6886181, at *9 (C.D. Cal. Dec. 5, 2017) (finding abstract the "basic idea of exchanging messages, or information, through an intermediary"). What is more, Voxer's bare allegation that end-to-end connections were "required for conventional video communication methods" is belied by the Asserted Patents. D.I. 1 ¶¶ 40, 49, 55, 61, 67; *see also CardioNet*, 955 F.3d at 1372. The specification states that the alleged invention is "intended to run or be layered over a variety of existing communication networks . . . , such as the Internet, . . . mobile or cellular phone networks, or a combination thereof," '270 patent, 24:42-25:8, and characterizes the transport of messages as being according to "standard protocols" and "standard procedures" used in such networks, *id.*, 23:54-61; *id.*, 25:9-24; *see also id.* at 7:61-67.

The claims simply recite a classic paradigm of information transfer using generic computer and network components: information is sent from one device to an intermediary server, which stores that information and then forwards it to other devices. Nothing explains how this concept presents a technological solution distinct from conventional networked information transfer. *E.g.*, *Hawk Tech*, 60 F.4th at 1358-59. Given the specification's description of generic network connections being used in conventional ways, "no amount of creative pleading could . . . succeed[] in transforming the claims into patent-eligible subject matter." *Beteiro, LLC v. Draftkings Inc.*, 104 F.4th 1350, 1358 (Fed. Cir. 2024).

3. The generation and transmission of degraded versions of video communications ('557 patent)

With respect to the '557 patent, Voxer also alleges that the "generation and transmission"

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of "degraded versions" of video communications renders the claims patent eligible.[6] D.I. 1 ¶ 49. Not so. These limitations, which are silent as to how the "degrad[ation]" is achieved (*e.g.*, via compression or some other technique) amount to nothing more than "converting" data, and the Federal Circuit has made clear that "converting information from one format to another—including changing the format of video data or compressing it—is an abstract idea." *HawkTech*, 60 F.4th at 1357. Indeed, the Federal Circuit has found similar claims reciting "transcod[ing] [] incoming video signal from [a] first format into multiple compressed output signals" based on "parameters" without any "specific advance in coding or other techniques for implementing that idea" to be directed to abstract ideas. *Adaptive Streaming*, 836 F. App'x at 902-03.

Nor does the '557 patent identify any technological improvement to video communication technology provided by the generically claimed "generation" or "transmission" of "degraded" media. Like the patent ineligible claims in *Adaptive Streaming*, the '557 patent's claims are "focused on [] general ideas governing basic communication practices, not on any more specific purported advance in implementation," and therefore "directed to abstract ideas." 836 F. App'x at 903 (collecting cases); *see also id.* at 904 (finding claims directed to video compression patent ineligible where "there is no identification in the claims or written description of specific, unconventional encoding, decoding compression, or broadcasting techniques"); *ChargePoint*, 920 F.3d at 771 (claims directed to a charging station that modulates electricity flow based on demand are patent ineligible where "nothing in the specification explains from a technical perspective how that modification occurs").

4. The use of video segments to the claimed process ('516 patent)

Regarding the '516 patent, Voxer alleges that "the use of video segments to the claimed

[6] Specifically, claim 1 of the '557 patent recites "generating," "selecting," and "transmitting" a "degraded version of the video media of the video message."

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process [sic]" renders the claims patent-eligible. D.I. 1 ¶ 55. But organizing information, including dividing it into "segments," is itself an abstract idea. *Two-Way Media*, 874 F.3d at 1334-35, 1338; *Digitech Image Techs., LLC v. Elecs. for Imaging, Inc.*, 758 F.3d 1344, 1351 (Fed. Cir. 2014). As courts have held, the idea of dividing a video stream into "segments" to be sequentially transmitted to a receiving device is not patent eligible. *Helios Streaming, LLC v. Warner Bros. Discovery, Inc.*, 713 F. Supp. 3d 806, 815 (C.D. Cal. 2024) (claims directed to "providing a segment of media content through streaming," *i.e.*, the "idea of sending and receiving data"); *see also Hawk Tech*, 60 F.4th at 1358; *Two-Way Media*, 874 F.3d at 1335; *Affinity Labs*, 838 F.3d at 1258; *ClearDoc*, 2022 WL 606698 at *3.

The '516 patent does not claim a specific way of creating or transmitting "video segments." As evident from claim 1, the '516 patent's "segments" can contain any "content of the video media"—in other words, they encompass any way of dividing up a video message's content. *See* '516 patent, 24:31-40 (explaining that "[***r***]***egardless of the type or how it is originated***, the Media is ***segmented*** and placed into payloads of a plurality of Vox packets," which can be "continually, stored, transmitted, received, stored [sic] and rendered in streams (*i.e.*, streaming media)") (emphases added). Voxer's attempt to claim the idea of transferring information by dividing it into smaller pieces should be rejected.

5. The allowance of multimedia communication amongst client devices during the claimed process ('883 and '929 patents)

Voxer finally alleges that the '883 and '929 patents are patent-eligible for the additional reason that they include "the allowance of multimedia communication amongst client devices during the claimed process." D.I. ¶¶ 61, 67. Claims directed to "coordinating video messages with comments and live streaming" are abstract. *Weple IP Holdings*, 2025 WL 1194056 at *9-10; *ChargePoint*, 920 F.3d at 769-70 ("communication over a network"); *directPacket Research, Inc.*

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v. Polycom, Inc., 2025 WL 1752247, at *4 (Fed. Cir. June 25, 2025) ("transmitting . . . multimedia data . . . to a target communication device"). Here, the '883 and '929 patents claim this functionality in an entirely result-oriented way, simply reciting that the method comprises the step of "enabling" users to "add" or "contribute" additional messages to a video message without specifying *how* that is done. *See generally* '883 patent, *e.g.*, claims 1-8, 15, 35-39; '929 patent, *e.g.*, claims 1, 2, 7, 17.

The Federal Circuit has made clear that claims reciting "a 'network based delivery resource' that retrieves and streams [] requested content to [a] handheld device" are directed to an abstract idea. *Affinity Labs*, 838 F.3d at 1269. As explained above, the transmission of video messages is directed to an abstract idea. Adding "additional messages" or "multi-media messages" is simply "[a]dding one abstract idea . . . to another abstract idea . . . [and] does not render the claim non-abstract." *ChargePoint*, 920 F.3d at 771.

6. Voxer's remaining allegations identify nothing patent-eligible

Voxer alleges that the claims address "a specific improvement to the way computers operate, including by progressively transmitting streaming media over a network as the streaming media is created and stored without previously ascertaining the location of identified recipients." D.I. 1 ¶¶ 40, 55, 61, 67; *see id.*, ¶ 39.[7] But, as noted above with respect to claim 37 of the '270 patent, nothing in the Representative Claims (or any of the claims) explains *how* such functionality is supposedly enabled. At best, Voxer's alleged "specific improvement" is simply the result of the abstract idea of sending information through an intermediary that determines where that information should go and when. *See Two-Way Media*, 874 F.3d at 1337-38 ("routing information using result-based functional language" is abstract); *supra* § II.B.2. Even assuming such an idea

[7] Voxer does not make this allegation with respect to the '557 patent. D.I. 1 ¶ 49.

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were *novel*, that does not make it *patent eligible*. *CardioNet*, 955 F.3d at 1372.

Voxer also alleges that the patents "enabl[e] hybrid digital communications that can be both real-time and time-shifted." D.I. 1 ¶¶ 40, 49, 55, 61, 67. Again, the claims do not describe any "communication protocol" or *how* it enables messages to be transmitted in both real-time and time-shifted mode—instead, they simply recite the result that such functionality is "enabl[ed]," a hallmark of patent-ineligible claims. *Elec. Power Grp.*, 830 F.3d at 1356; *see, e.g.*, '929 patent, claim 1. These claims bear a striking resemblance to those in *Hawk Tech* directed to providing real-time and stored streams of surveillance videos, and are patent ineligible for the same reason. *Hawk Tech*, 60 F.4th at 1357-58.

7. The *Meta* opinion does not override Federal Circuit precedent

Google acknowledges that the *Meta* district court previously found, at *Alice* step one, that the '270 patent was "directed to improvements to communications systems rather than an unpatentable abstract idea," namely, "progressively transmitting streaming media over a network as the streaming media is created and persistently stored" (*i.e.*, ***transmitting*** and ***storing*** data) and "delivering video communication without first establishing an end-to-end connection over the network between the sender and receiver" (*i.e.*, ***transmitting*** data over a network) D.I. 1 ¶¶ 44-45; *Meta*, 2023 WL 2806283, at *10, *12.[8] But this Court is bound to follow Federal Circuit precedent, including the recently issued *Hawk Tech* decision not addressed by the *Meta* district court. *See Ferrari v. Forbes Media LLC*, 2025 WL 2201083, at *7 (D. Del. Aug. 1, 2025). And

[8] Although the *Meta* opinion noted that, "[a]t *Alice* Step One, the court concludes that the '270 patent is directed to improvements to communication systems rather than an unpatentable abstract idea," the only legal authority that the *Meta* court cited for that proposition was, in fact, analyzing *Alice* step two. *See* 2023 WL 2806283, at *12 (citing *Cellspin Soft, Inc. v. Fitbit, Inc.*, 927 F.3d 1306, 1319 (Fed. Cir. 2019)). In fact, the *Cellspin* case that *Meta* relied on found that, at step one, the claims *were* directed to an abstract idea. *See Cellspin*, 927 F.3d at 1316.

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the Court in *Hawk Tech* expressly held that claims directed to "transmitting" and "storing" digital video are directed to abstract ideas.

Chief Judge Connolly addressed similar circumstances in *Realtime Data LLC v. Array Networks Inc.*, involving a motion challenging patents previously upheld by a Texas district court. 537 F. Supp. 3d 591 (D. Del.), *adhered to,* 556 F. Supp. 3d 424 (D. Del. 2021). The patentee there "relie[d] heavily on" the prior patent-eligibility rulings on two patents. *Id.* at 618, n.4. Chief Judge Connolly "disagree[d]," finding that "since those opinions were issued, the Federal Circuit has reaffirmed that the processing of information, without more, is not patent eligible." *Id.* Chief Judge Connolly concluded that those two patents, which were directed to manipulating data, were both patent-ineligible. *Id.* at 611-13, 616-21. That decision was affirmed by the Federal Circuit. *Realtime Data LLC v. Array Networks Inc.*, 2023 WL 4924814 (Fed. Cir. Aug. 2, 2023).

Google respectfully submits that this Court likewise should follow Federal Circuit precedent here. The *Meta* district court opinion did not address the Federal Circuit's *Hawk Tech* opinion, which issued just four days before the *Meta* § 101 opinion. Nor could *Meta* overrule prior Federal Circuit precedent on the abstractness of similar claims. *See, e.g.*, *Two-Way Media*, 874 F.3d at 1334–35, 1337. Federal Circuit precedent compels a finding of abstractness; thus, the contrary *Meta* district court opinion should not sway this Court's decision on *Alice* step one.

C. *Alice* Step Two: The Claims Do Not Provide an Inventive Concept

None of the claim elements, either alone or as an ordered combination, provide an inventive concept rendering them patent-eligible. As explained, none of the alleged "innovations" supplies an inventive concept, either alone or in combination, because each is an abstract idea. D.I. 1 ¶¶ 40, 49, 55, 61, 67; *ChargePoint* 920 F.3d at 775 (Fed. Cir. 2019) ("the abstract idea itself . . . cannot supply an inventive concept"); *id.* at 771 ("[a]dding one abstract idea . . . to another abstract idea . . . does not render the claim non-abstract"). The alleged "results" and "improvements" from

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applying these abstract ideas are likewise insufficient to save the claims. D.I. 1 ¶¶ 42, 50, 56, 62, 68; *Two-Way Media*, 874 F.3d at 1337. The other claim elements, such as the "servers," "devices," "network," and "video," are nothing but generic hardware and software components operating in routine and conventional ways, as the Asserted Patents themselves make clear.

As noted above, the Asserted Patents concede that the alleged invention uses conventional networks in "standard" ways. '270 patent, 23:54-61; 24:42-25:8. They emphasize that the hardware components, such as the device, are "intended to be 'generic.'" *Id.*, 34:64-67; *see also id.*, 7:41-8:10 (describing "System Components" and "Media" in generic terms). Similarly, the claimed "Message" is described as "[a]n individual unit of communication from one User to another" and the claimed "Media" can be "[a]udio, video, text, position, sensor readings such as temperature, *or other data*." *Id.* (emphasis added). These generic components, recited with "generic functional language" and requiring "nothing other than conventional computer and network components operating according to their ordinary functions," provide no inventive concept. *Hawk Tech*, 60 F.4th at 1358-59; *id.* at 1353 (describing use of "existing broadband infrastructures" and a "generic PC-based server" to perform methods).

Voxer identifies nothing else in the claims as supplying an inventive concept, nor any further reason for why the ordered combination of claim elements renders the abstract idea patent-eligible. Instead, it repeats conclusory allegations that the claimed subject matter and "[t]he ordered combination of elements" were "not well-understood, routine, or conventional," with block citations to multiple columns of the specification without any reference to particular claims, limitations, or any other explanation. D.I. 1 ¶¶ 42, 51, 57, 63, 69. These are no more than "conclusory statements that the claimed steps were not well-known, routine, and conventional," which this Court is "not required to credit." *Sanderling Mgmt. v. Snap Inc.*, 65 F.4th 698, 706

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(Fed. Cir. 2023); *IBM*, 50 F.4th at 1379; *Beteiro*, 104 F.4th at 1358; *Dropbox, Inc. v. Synchronoss Techs., Inc.*, 815 F. App'x 529, 538 (Fed. Cir. 2020) (conclusory allegations that "inventions described and claimed" in the patent "solved [alleged] problems" were "insufficient to survive a motion to dismiss"); *Cisco Sys., Inc. v. Uniloc 2017 LLC*, 813 F. App'x 495, 498–99 (Fed. Cir. 2020) (statements that the patents were "drawn to solving a specific, technical problem arising from the evolution of ad-hoc radio communication systems" and "the inventions . . . were not well-understood, routine or conventional at the time of the invention" were "sweeping conclusory statements [that] the district court properly concluded . . . did not preclude dismissal").

If anything, Voxer's attendant citations to the specification undermine its inventiveness allegations by describing only result-oriented and generic computer and network functionality. *E.g.*, '270 patent, 4:10-39 (describing abstract functionality involving "live" and "time-shifted" conversations); *id.*, 6:29-7:27 (reciting result-oriented functionality); 9:24-37 (defining "Packet" as "[a]ny unit of binary data capable of being routed through a computer network"); *id.*, 9:55-59 (describing "[t]he Rendering of one or more Media streams"); 10:42-55 (describing the abstract idea of "Time-Shifting"). Voxer also characterizes the "message," "identifier," and "media" claim elements as analogous to "conventional" components. D.I. 1 ¶ 29 ("***Like conventional messaging***, the Voxer solution involves the ***transmission of individual units of communication*** that include (i) ***identifier information*** for addressing target recipient(s), and (ii) ***media such as voice and/or video***.") (emphases added). Such "[c]onclusory allegations, or those 'wholly divorced' from the claims or the specification, cannot defeat a motion to dismiss." *Beteiro*, 104 F.4th at 1358.

Voxer further alleges that the claimed methods "cannot be performed as mental steps" and do not "represent the application of a generic computer to any well-known method of organizing human behavior." D.I. 1 ¶¶ 43, 51, 57, 63, 69. The Court need not credit such conclusory

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allegations untethered to the claims or the specification. *Beteiro*, 104 F.4th at 1358. As explained above, Voxer's claims apply generic computer components to a series of abstract ideas, each of which has previously been recognized by the Federal Circuit to be patent ineligible.

Finally, Voxer asserts that the Asserted Patents' allowance, along with *ex parte* reexamination of the '270 and '557 patents—somehow "confirms the patentable subject matter" "as covering an inventive concept." D.I. 1 ¶¶ 46, 52, 58, 64, 70. But a party's "purported diligence and good faith during patent prosecution before the USPTO" does not "in any way shield the patent's claims from Article III review for patent eligibility." *Elec. Commc'n Techs. v. ShoppersChoice.com*, 958 F.3d 1178, 1183 (Fed. Cir. 2020); *WhitServe LLC v. Dropbox, Inc.*, 2019 WL 3342949, at *7 (D. Del. July 25, 2019), *aff'd,* 854 F. App'x 367 (Fed. Cir. 2021). Nor was eligibility under § 101 addressed during the Asserted Patents' prosecution or reexamination.

III. VOXER'S CLAIMS FOR WILLFUL INFRINGEMENT AND PRE-SUIT INDIRECT INFRINGEMENT SHOULD BE DISMISSED

Although the Complaint should be dismissed in full, it suffers from a second independent flaw: the failure to adequately allege willful and pre-suit indirect infringement. Claims for indirect patent infringement (*i.e.*, inducement or contributory infringement) require pleading knowledge of both the patent and its infringement. *Cleveland Med. Devices Inc. v. ResMed Inc.*, 696 F. Supp.3d 4, 10, 12 (D. Del. Oct. 2, 2023). Unless the plaintiff alleges "sufficient facts . . . with specificity [] to support the plausible inference that [defendant] had knowledge that its users' actions constituted infringement of the respective patents-in-suit," dismissal follows. *Pragmatus AV, LLC v. TangoMe, Inc.*, 2013 WL 571798, *12 (D. Del. Feb. 13, 2013). A willfulness claim likewise requires a plaintiff to plead "both knowledge of the patent and of the infringement," and "the complaint itself cannot serve as the basis for a defendant's actionable knowledge for a willful infringement claim." *Cleveland Med.*, 696 F. Supp. 3d at 13-14 (cleaned up).

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A. Voxer's Claims for Pre-Suit Indirect Infringement Should Be Dismissed.

Voxer's claims for pre-suit indirect infringement fail because Voxer has not plausibly alleged that Google, prior to Voxer's Complaint, had knowledge of (1) any of the Asserted Patents or (2) their potential infringement.

1. Voxer has not plausibly alleged pre-suit knowledge.

As noted above, pleading indirect infringement requires a plaintiff to allege facts plausibly showing that the defendant had knowledge of the patent. Voxer makes just three threadbare allegations regarding Google's alleged pre-suit knowledge of the Asserted Patents. They do not come close—either individually or collectively—to plausibly showing actual knowledge of any of the Asserted Patents prior to the filing of Voxer's Complaint.

First, Voxer alleges that its "representatives discussed Voxer, its intellectual property, and its relevance to Google with Google personnel in 2016." D.I. 1 ¶¶ 76, 90, 104, 117, 130. Voxer does not plead specific allegations to support its vague claim. Notably, and crucially, Voxer does not allege that the parties discussed the Asserted Patents. Nor could it, as none of the Asserted Patents existed in 2016 when Voxer allegedly discussed "its intellectual property" with Google.

Courts in this District consistently find allegations like Voxer's insufficient. In *Cleveland Medical*, for example, this Court held that even "detailed allegations" describing "discussions" between the plaintiff and defendant regarding plaintiff's other patents were "insufficient to infer pre-suit knowledge to sustain a pre-suit indirect infringement claim" with respect to patents that issued "two years after the parties' last alleged communication." 696 F. Supp. 3d at 10-11. Similarly, in *Wrinkl, Inc. v. Facebook, Inc.*, the court held that an allegation regarding an email in which plaintiff sent defendant a video presentation describing plaintiff's technology and specifically named one of the patents-in-suit was insufficient to plead pre-suit knowledge of a related patent that issued two years later. 2021 WL 4477022, *5-6 (D. Del. Sept. 30, 2021); *see*

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also Evolved Wireless, LLC v. Samsung Elec. Co., Ltd., 2016 WL 1019667, at *3-4 (D. Del. Mar. 15, 2016) (allegation that plaintiff sent defendant a letter specifically naming the patents-in-suit among a list of eighty-five patents and patent applications "insufficient to establish that [defendant had pre-suit knowledge of the patents-in-suit"). Here, Voxer's vague allegation is even weaker. Voxer does not allege that *any* specific patents or applications were discussed during the alleged 2016 discussion, which, again, predated issuance of the Asserted Patents.

Second, Voxer alleges that the patent examiner cited a patent related to the Asserted Patents (U.S. Patent 8,180,029) during prosecution of a Google patent, U.S. Patent 11,140,207. D.I. 1 ¶¶ 76, 90, 104, 117, 130. As a threshold matter, the file history for Google's '207 patent nowhere cites the '029 patent, its application (No. 12/028,400), or its related prior publication (US 2009/0003558). *See* File History, U.S. Pat. App. Ser. No. 15/851,610.[9] And even if it did, courts in this District consistently hold that citations to patents or applications related to the asserted patents are insufficient to plausibly support a claim of pre-suit knowledge of the asserted patents themselves. For example, as the court explained in *LiTL LLC v. Lenovo (United States), Inc.*, where a plaintiff "does not allege a single instance of [defendant] specifically referencing any" of the patents-in-suit and instead "relies on a small handful of citations to various applications that eventually issued as the Asserted Patents or, even more distantly, applications that eventually issued as patents related to the Asserted Patents," such allegations do not "plausibly support a conclusion that [defendant] had pre-suit knowledge of [the Asserted Patents]." 2022 WL 610739, at *8 (D. Del. Jan. 21, 2022). What is more, while "the *defendant itself* referenc[ing]" the actual patent-in-suit may plausibly support an inference of knowledge of that patent, "a patent *examiner's*

[9] "In deciding a Rule 12(b)(6) motion, a court may take judicial notice of a patent's prosecution history, which is a public record." *Int. Bus. Machines Corp. v. The Priceline Grp. Inc.*, 2016 WL 626495, *20 n.18 (D. Del. Feb. 16, 2016).

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prior art reference *to the patent-in-suit* during prosecution of that defendant's own patents [does] not constitute actual knowledge." *Intellectual Ventures I LLC v. AT&T Mobility LLC*, 69 F. Supp. 3d 461, 465-66 (D. Del. 2014) (emphases added). Here, Voxer's allegations fall short twice over as Voxer alleges (1) it was the examiner, *not* Google, who (2) referenced a patent related to the Asserted Patents, *not* any of the Asserted Patents.

Third, Voxer alleges that Google had notice of the '270 and '557 patents, which were asserted in a prior litigation in a different court against an unrelated company, because that unrelated suit "was publicly accessible, widely publicized, and known by industry participants." D.I. 1 ¶¶ 77, 91. As courts in this District have observed, Voxer's "suggestion that filing a lawsuit gives actual knowledge to an unrelated party is [] fanciful." *Chalumeau Power Sys. LLC v. Alcatel-Lucent*, 2012 WL 6968938, at *1 (D. Del. July 18, 2012); *MONEC Holding AG v. Motorola Mobility, Inc.*, 897 F. Supp. 2d 225, 232 (D. Del. 2012) (allegations regarding "defendant's participation in the same market, media publicity and unrelated litigation by the defendant's competitors concerning the relevant patent" insufficient to plead knowledge). Nor does Voxer's allegation that its *Meta* complaint "was publicly accessible, widely publicized, and known by industry participants," D.I. 1 ¶¶ 77, 91, cure the deficiency. Even highly publicized litigation does not *ipso facto* give non-parties notice of the asserted patents. In *Softview LLC v. Apple Inc.*, the court rejected the claim that defendant had "pre-suit knowledge of the [patent] as a result of the media publicity surrounding the initial lawsuit" in which the patent was asserted against another defendant. 2012 WL 3061027, *6 (D. Del. July 26, 2012). Here, as in *Softview*, "[t]he mere fact that [Voxer]'s lawsuit against [an unrelated defendant] was reported in certain media outlets does not, by itself, plausibly suggest that [Google] would have been aware of those particular media reports." *Id.*

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2. Voxer has not alleged pre-suit knowledge of potential infringement.

Voxer's pre-suit indirect infringement claims likewise fail because the Complaint lacks sufficient facts to plausibly allege pre-suit knowledge of the possibility of *infringement* of the Asserted Patents, as required. *Cleveland Med.*, 696 F. Supp. 3d at 12.

For starters, although Voxer vaguely alleges a "discussion" with "Google personnel" nearly a decade ago, D.I. 1 ¶¶ 76, 90, 104, 117, 130, that allegation is incapable of suggesting Google had knowledge of potential infringement given that the Asserted Patents had not issued—or even been filed—as of the time of that alleged meeting. Beyond that, a "general allegation about 'discussions'" is, without more, "insufficient to withstand a motion to dismiss," *Intellectual Ventures I LLC v. Toshiba Corp.*, 66 F. Supp. 3d 495, 499-500 (D. Del. 2014). Here, the Complaint offers no details about the content of those discussions. For example, "[n]owhere does [Voxer] allege that its correspondence with [Google] identified [Google's] accused product[], identified [Voxer's] asserted patent[s] and claims allegedly infringed, and explained why [Google's] accused product[] or components read on the claims' limitations." *Cleveland Med.*, 696 F. Supp. at 12.

The other allegations discussed *supra* in § III.A.1 say nothing at all about the Accused Product and fail to plausibly plead Google's notice of potential infringement. Even if Voxer had adequately alleged that Google was aware of the Meta lawsuit, that Voxer brought an infringement claim against an unrelated defendant is irrelevant to whether *Google's* Accused Product infringes the Asserted Patents. *See Chalumeau*, 2012 WL 6968938 at *1. Nor is Voxer's allegation that an examiner cited a patent related to the Asserted Patents sufficient to plausibly plead knowledge of infringement of the separate and distinct *claims* of the Asserted Patents. *Id.* The Court should dismiss Voxer's claims for pre-suit indirect infringement for this additional reason.

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B. Voxer's Claims for Willful Infringement Should be Dismissed.

The Court also should dismiss Voxer's willful infringement claims—both pre- and post-suit. Enhanced damages under 35 U.S.C. § 284 "should generally be reserved for egregious cases typified by willful misconduct," and "are not to be meted out in a typical infringement case." *Halo Elecs., Inc. v. Pulse Elecs., Inc.*, 579 U.S. 93, 103, 106 (2016). Here, Voxer's allegations of willful infringement are based on the same insufficient, threadbare allegations discussed above, with the additional assertion that "by at least the date of the filing of this Complaint, Google was made aware of the [asserted patents] and Google's infringement thereof." D.I. 1 ¶¶ 78, 92, 105, 119, 131. As a matter of law, these allegations are insufficient to state a claim for willful infringement.

For the reasons explained above, Voxer has not alleged facts sufficient to show that Google had pre-suit knowledge of the Asserted Patents or of infringement. Each failure independently dooms its willfulness claim. *Cleveland Med.*, 696 F. Supp. 3d at 13-14; *see, e.g.*, *Wrinkl*, 2021 WL 4477022 at *5-6, *8 (dismissing willful infringement claims for failure to allege pre-suit knowledge despite allegation that plaintiff discussed related patent with defendant); *Softview*, 2012 WL 3061027 at *6, *8 (dismissing willful infringement claims for failure to allege pre-suit knowledge despite assertion of the same patent-in-suit against a separate defendant).

Now can Voxer's allegation that Google has been on notice of the Asserted Patents and its infringement allegations since at least the filing of the Complaint sustain a claim for willful infringement. "This Court adopts the view that the complaint itself cannot serve as the basis for a defendant's actionable knowledge for a willful infringement claim." *Cleveland Med.*, 696 F. Supp. 3d at 14 (cleaned up). "[W]hen there is no pre-suit knowledge, it is not sufficient merely to allege the defendant has knowledge since the filing of the original complaint and has not ceased doing whatever the infringing behavior is alleged to be." *Wrinkl*, 2021 WL 4477022 at *6; *Cleveland Med.*, 696 F. Supp. 3d at 14. Voxer's claim for willful infringement therefore should be dismissed.

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