IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

VOXER, INC. and VOXER IP LLC, Plaintiffs, v. AMAZON.COM, INC., AMAZON WEB SERVICES, INC., and TWITCH INTERACTIVE, INC. Defendants.	)	C.A. No. 25-872 (GBW)

AMAZON.COM, INC., AMAZON WEB SERVICES, INC., AND TWITCH INTERACTIVE, INC.'S OPENING BRIEF IN SUPPORT OF THEIR MOTION TO DISMISS VOXER'S COMPLAINT

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TABLE OF CONTENTS

Page(s)

I. INTRODUCTION 1

II. NATURE AND STAGE OF PROCEEDINGS AND STATEMENT OF FACTS 2

III. SUMMARY OF ARGUMENT 3

IV. LEGAL STANDARD 4

V. ARGUMENT 5

A. Voxer Fails to State Viable Infringement Claims Against ACI, AWS, or Twitch Because It Fails to Plead their Specific Alleged Infringing Acts 5

1. Voxer's conclusory group pleading allegations are deficient 5

2. Voxer fails to plead facts supporting claims against ACI 6

3. Voxer fails to plead facts supporting claims against AWS 8

4. Voxer fails to plead facts supporting claims against Twitch 10

5. Voxer's "joint infringement" claims are deficient 10

B. Voxer's Indirect Infringement Claims Fail for the Additional Reason that Voxer Does Not Plead the Required Knowledge and Intent 11

1. Voxer's pre-suit indirect infringement claims should be dismissed because Voxer does not plead the requisite pre-suit knowledge 11

a. Voxer does not plausibly allege that the defendants had pre-suit knowledge of any of the Asserted Patents 11

b. Voxer does not plausibly allege that the defendants had pre-suit knowledge of the alleged infringement 13

2. Voxer's entire induced infringement claim should be dismissed because Voxer does not allege facts showing specific intent to induce infringement 14

C. Voxer's Willful Infringement Claims Fail Because Voxer Has Not Alleged Facts Showing ACI, AWS, or Twitch Had the Requisite Knowledge 15

VI. CONCLUSION 16

Google/Voxer Ex. 2023, p.2 of 24
Google, Inc. v. Voxer, Inc., et. al.
IPR2026-00423

TABLE OF AUTHORITIES

Page(s)

Cases

Aeritas, LLC v. Alaska Air Grp., Inc.,
893 F. Supp. 2d 680 (D. Del. 2012).....11

Ancora Techs., Inc. v. Lenovo Grp.,
C.A. No. 19-1712-CFC, 2020 WL 4530718 (D. Del. Aug. 6, 2020) 4, 10

Arunachalam v. IBM,
C.A. No. 20-1020-LPS, 2021 WL 7209362 (D. Del. Dec. 29, 2021).....4

Ashcroft v. Iqbal,
556 U.S. 662 (2009).....4

Bell Atl. Corp. v. Twombly,
550 U.S. 544 (2007).....4

BlackBerry Ltd. v. Nokia Corp.,
C.A. No. 17-155-RGA, 2018 WL 1401330 (D. Del. Mar. 20, 2018).....8, 10

Bos. Sci. Corp. v. Nevro Corp.,
560 F. Supp. 3d 837 (D. Del. 2021).....16

C.R. Bard, Inc. v. Guidant Corp.,
997 F. Supp. 556 (D. Del. 1998).....7, 8, 10

Chalumeau Power Sys. LLC v. Alcatel-Lucent,
C.A.No. 11-1175-RGA, 2012 WL 6968938 (D. Del. July 18, 2012).....12

Cirba Inc. v. VMware, Inc.,
No. CV 19-742-GBW, 2023 WL 3151852 (D. Del. Apr. 18, 2023) 13

Cleveland Med. Devices Inc. v. ResMed Inc.,
696 F. Supp. 3d 4 (D. Del. 2023).....13, 14, 15, 16

Dodots Licensing Sols. LLC v. Lenovo Holding Co., Inc.,
C.A. No. 18-098 (MN), 2018 WL 6629709 (D. Del. Dec. 19, 2018).....15

Dynamic Data Techs., LLC v. Brightcove Inc.,
C.A. No. 19-1190-CFC, 2020 WL 4192613 (D. Del. July 21, 2020).....14

Glob.-Tech Appliances, Inc. v. SEB S.A.,
563 U.S. 754 10

Google/Voxer Ex. 2023, p.3 of 24
Google, Inc. v. Voxer, Inc., et. al.
IPR2026-00423

Hammon v. Kennett Twp.,
746 F. App'x 146 (3d Cir. 2018) 4

Helios Streaming, LLC v. Vudu, Inc.,
C.A. No. 19-1792-CFC-SRF, 2020 WL 2332045 (D. Del. May 11, 2020).....9

IP Commc'n Sols., LLC v. Viber Media (USA) Inc.,
C.A. No. 16-134-GMS, 2017 WL 1312942 (D. Del. Apr. 5, 2017).....15

Jackson v. Seaspine Holdings Corp.,
C.A. No. 20-1784-RGA, 2022 WL 610703 (D. Del. Feb. 14, 2022) 13

Lyda v. CBS Corp.,
838 F.3d 1331 (Fed. Cir. 2016).....10

M2M Sols. LLC v. Telit Commc'ns PLC,
C.A. No. 14-1103-RGA, 2015 WL 4640400 (D. Del. Aug. 5, 2015).....7

Midwest Energy Emissions Corp. v. Arthur J. Gallagher & Co.,
C.A. No. 19-1334-RGA-CJB, 2021 WL 2036671 (D. Del. May 20, 2021).....6, 7, 10

MONEC Holding AG v. Motorola Mobility, Inc.,
897 F. Supp. 2d 225 (D. Del. 2012).....12, 13, 15

N. Star Innovations, Inc. v. Toshiba Corp.,
C.A. No. 16-115-LPS-CJB, 2016 WL 7107230 (D. Del. Dec. 6, 2016) 4, 5

New Hampshire Ins. Co. v. R.L. Chaides Const. Co.,
847 F. Supp. 1452 (N.D. Cal. 1994) 10

Promos Techs., Inc. v. Samsung Elecs. Co.,
C.A. No. 18-307-RGA, 2018 WL 5630585 (D. Del. Oct. 31, 2018).....4, 6

Robocast, Inc. v. YouTube, LLC,
C.A. No. 22-304-RGA, 2022 WL 16922035 (D. Del. Nov. 14, 2022).....12, 13

SoftView LLC v. Apple Inc.,
C.A.No. 10-389-LPS, 2012 WL 3061027 (D. Del. July 26, 2012) 12

State Indus., Inc. v. A.O. Smith Corp.,
751 F.2d 1226 (Fed. Cir. 1985).....13

StrikeForce Techs., Inc. v. PhoneFactor, Inc.,
C.A. No. 13-490-RGA-MPT, 2013 WL 6002850 (D. Del. Nov. 13, 2013), *as amended* (D. Del. Nov. 14, 2013).....6

Google/Voxer Ex. 2023, p.4 of 24
Google, Inc. v. Voxer, Inc., et. al.
IPR2026-00423

Uniloc 2017 LLC v. Zenpayroll, Inc.,
C.A. No. 19-1075-CFC-SRF, 2020 WL 4260616 (D. Del. July 23, 2020), *report and recommendation adopted sub nom. Uniloc 2017 LLC v. Zen Payroll, Inc.*, C.A. No. 19-1075-CFC/SRF, 2020 WL 5077416 (D. Del. Aug. 27, 2020) 9

Voxer, Inc. et al. v. Google LLC et al.,
C.A. No. 25-873-GBW (D. Del.) 2

Wrinkl, Inc. v. Facebook, Inc.,
C.A. No. 20-1345-RGA, 2021 WL 4477022 (D. Del. Sept. 30, 2021) 16

ZapFraud, Inc. v. Barracuda Networks, Inc.,
528 F. Supp. 3d 247 (D. Del. 2021) 14, 16

Rules

Fed. R. Civ. P. 12(b)(6) 1

Google/Voxer Ex. 2023, p.5 of 24
Google, Inc. v. Voxer, Inc., et. al.
IPR2026-00423

I. INTRODUCTION

Plaintiffs Voxer, Inc. and Voxer IP LLC (collectively, "Voxer") fail to state infringement claims against defendants Amazon.com, Inc. ("ACI"), Amazon Web Services, Inc. ("AWS"), and Twitch Interactive, Inc. ("Twitch"). Voxer's Complaint (D.I. 1) should be dismissed pursuant to Federal Rule of Civil Procedure 12(b)(6).

Voxer fails to plead facts giving rise to a plausible inference that ACI, AWS, or Twitch infringe Voxer's patents. Instead, Voxer lumps these separate legal entities together as "Amazon" (or "Defendants") and contends that "Amazon" (or "Defendants") infringes. But Voxer concedes that these separate entities do not engage in the same business. Accordingly, Voxer cannot rely on group pleading to state viable infringement claims against them.

Voxer also fails to identify specific acts of each company that give rise to infringement claims. As to ACI, Voxer relies primarily on its status as Twitch's parent, but that is insufficient to state a claim for infringement. As to AWS, Voxer alleges that Twitch.tv uses AWS servers and that AWS has a channel on Twitch.tv, but those facts do not add up to a viable infringement claim. Voxer's reliance on group pleading to try to mask the lack of viable claims against ACI and AWS also renders its claims against Twitch deficient. Voxer alleges that Twitch's actions with respect to Twitch.tv constitute direct, induced, and contributory infringement of the very same patent claims. But Twitch cannot, as a matter of law, induce or contribute to its own alleged direct infringement and Voxer does not identify any third-party direct infringers.

Voxer's indirect and willful infringement claims should be dismissed for additional and independent reasons. For indirect infringement, Voxer alleges no facts supporting a reasonable inference that ACI, AWS, or Twitch had pre-suit knowledge of the asserted patents or the alleged infringement. Voxer also does not plead any facts plausibly showing ACI, AWS, or Twitch

specifically intended to induce infringement. For willful infringement, Voxer likewise fails to allege the required pre-suit knowledge, and the Complaint itself cannot supply it.

II. NATURE AND STAGE OF PROCEEDINGS AND STATEMENT OF FACTS

On July 14, 2025, Voxer filed suit against ACI, AWS, and Twitch, alleging that the Twitch.tv video-streaming platform infringes U.S. Patent Nos. 10,142,270 ("'270 Patent"), 10,511,557 ("'557 Patent"), 11,146,516 ("'516 Patent"), 11,777,883 ("'883 Patent"), and 11,658,929 ("'929 Patent"; collectively, the "Asserted Patents"). (D.I. 1.)[1] That same day, Voxer also filed suit against Google and YouTube for alleged infringement of the Asserted Patents. *Voxer, Inc. et al. v. Google LLC et al.*, C.A. No. 25-873-GBW (D. Del.).

Voxer concedes that ACI, AWS, and Twitch are separate entities. (D.I. 1, ¶¶ 10-12.) It alleges that Twitch "operates the Twitch.tv website and related architecture" (*id.* ¶ 13), that AWS "operates servers and other services used to provide the Accused Products as well as operating its own channel on Twitch.tv" (*id.* ¶ 15), and that ACI is AWS's and Twitch's parent and "operates the Amazon.com website and related architecture, which is one of the providers of" Twitch.tv (*id.* ¶¶ 5, 11, 12, 14).

Despite acknowledging their different businesses, Voxer lumps Twitch, AWS, and ACI together as "Amazon" (or "Defendants") and vaguely alleges that "Amazon" (or "Defendants") infringes its patents. (*Id.* ¶¶ 75-142.) Voxer alleges that "Amazon has directly infringed and continues to infringe one or more claims of the [Asserted Patents] by making, using, selling, offering for sale, and/or importing, without authority or license, into the United States the Accused Products[.]" (*Id.* ¶¶ 77, 91, 105, 118, 131.) Voxer further alleges that "Amazon" "intentionally induces infringement of" and "contributes to the infringement of" the Asserted Patents. (*Id.* ¶¶ 78-

[1] Although Voxer refers to Twitch.tv as an exemplary "Accused Product" (D.I. 1, ¶ 1), Voxer does not identify any other accused product or service.

Google/Voxer Ex. 2023, p.7 of 24
Google, Inc. v. Voxer, Inc., et. al.
IPR2026-00423

79, 92-93, 106-107, 119-120, 132-133.) Voxer further asserts that "Defendants have been and are acting in concert, and are otherwise liable jointly . . . for relief . . . related to the making, using, selling . . . [of] the Accused Products[.]" (*Id.* ¶ 17.)

Voxer's allegations regarding ACI's, AWS's, and Twitch's knowledge of the Asserted Patents and alleged infringement—required for indirect and willful infringement—are also wholly conclusory. For example, Voxer contends that "[o]n information and belief, by at least 2018, Amazon was aware [of the Asserted Patents or the family members of the Asserted Patents] and [their] relevance to Amazon based on Amazon's knowledge of Voxer and investigation into Voxer's patents." (*Id.* ¶¶ 80, 94, 108, 121, 134.) Voxer further alleges that "Amazon had notice of the ['270 and '557 Patents] because [they were] asserted by Voxer in its complaint against Meta." (*Id.* ¶¶ 81, 95.)

On August 12, 2025, the Court entered an Order extending defendants' deadline to respond to the Complaint through September 24, 2025. (D.I. 12.) Defendants, by this motion, move to dismiss Voxer's claims in their entirety.

III. SUMMARY OF ARGUMENT

1. Voxer's claims should be dismissed because Voxer fails to plead facts supporting plausible infringement claims against ACI, AWS, or Twitch. Instead, Voxer improperly lumps these entities together without specifically identifying acts of each of these different entities sufficient to state viable infringement claims against them.

2. Voxer's indirect infringement claims should be dismissed for two additional reasons. First, Voxer has not pled facts sufficient to infer that ACI, AWS, or Twitch had pre-suit knowledge of the Asserted Patents or alleged infringement. Second, Voxer has not pled facts supporting a plausible inference that any defendant specifically intended to induce infringement.

Google/Voxer Ex. 2023, p.8 of 24
Google, Inc. v. Voxer, Inc., et. al.
IPR2026-00423

3. Voxer's willful infringement claims should be dismissed because Voxer has not pled the required pre-suit knowledge, and the Complaint itself cannot serve as the basis for establishing such knowledge.

IV. LEGAL STANDARD

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.'" *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (*quoting Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). Courts "are not bound to accept as true a legal conclusion couched as a factual allegation." *Iqbal*, 556 U.S. at 678. "Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice." *Id.*; *see also Hammon v. Kennett Twp.*, 746 F. App'x 146, 148 (3d Cir. 2018) (same). And "confusing and contradictory allegations are too vague to provide Defendants with fair notice[.]" *Ancora Techs., Inc. v. Lenovo Grp.*, C.A. No. 19-1712-CFC, 2020 WL 4530718, at *1 (D. Del. Aug. 6, 2020).

Critically, where there are multiple defendants, the plaintiff must "link claims to specific defendants" and allege sufficient facts to "discern which defendants allegedly did what, where, or when." *Arunachalam v. IBM*, C.A. No. 20-1020-LPS, 2021 WL 7209362, at *8 (D. Del. Dec. 29, 2021). Thus, "a complaint alleging infringement against multiple defendants [must] adequately identify specific infringing acts of *each* defendant." *Promos Techs., Inc. v. Samsung Elecs. Co.*, C.A. No. 18-307-RGA, 2018 WL 5630585, at *3 (D. Del. Oct. 31, 2018) (cleaned up; emphasis added); *see also N. Star Innovations, Inc. v. Toshiba Corp.*, C.A. No. 16-115-LPS-CJB, 2016 WL 7107230, at *2 (D. Del. Dec. 6, 2016) (dismissing claims that failed to identify which infringing acts were "actually being attributed to each Defendant").

Google/Voxer Ex. 2023, p.9 of 24
Google, Inc. v. Voxer, Inc., et. al.
IPR2026-00423

V. ARGUMENT

A. Voxer Fails to State Viable Infringement Claims Against ACI, AWS, or Twitch Because It Fails to Plead their Specific Alleged Infringing Acts

Voxer's Complaint fails to state infringement claims against ACI, AWS, or Twitch. Voxer's conclusory group pleading allegations are deficient, it fails to plead facts sufficient to state infringement claims against any of the defendants, and its cursory "joint infringement" allegation cannot save its claims. Accordingly, Voxer's claims should be dismissed.

1. Voxer's conclusory group pleading allegations are deficient

Voxer's group pleading allegations fail to state an infringement claim against any of ACI, AWS, or Twitch. According to Voxer, Twitch allegedly "operates the Twitch.tv website and related architecture" (D.I. 1, ¶ 13), ACI allegedly "operates the Amazon.com website and related architecture" (*id.* ¶ 14), and AWS allegedly "operates servers and other services used to provide [Twitch.tv]" (*id.* ¶ 15). Voxer's own allegations thus confirm the obvious: ACI, AWS, and Twitch are separate and independent entities that engage in separate and independent businesses.

Nevertheless, Voxer for the most part lumps ACI, AWS, and Twitch together and collectively refers to them as "Amazon" or "Defendants." (*See, e.g.*, D.I. 1, ¶¶ 16, 75-142.) Voxer then alleges that *Amazon* "has directly infringed and continues to infringe . . . by making, using, selling, offering for sale, and/or importing without authority"; that *Amazon* "actively, knowingly, and intentionally induces infringement"; and that *Amazon* "further contributes to the infringement of" the Asserted Patents. (*Id.* ¶¶ 77-79, 91-93, 105-107, 118-120, 131-133.)

Voxer's group pleading leaves ACI, AWS, and Twitch without notice as to the specific infringing acts that each of them allegedly engaged in. Such allegations are deficient as a matter of law. *See North Star Innovations, Inc. v. Toshiba Corp.*, Civ. No. 16-115-LPS, 2016 WL 7107230, at *2 (D. Del. Dec. 6, 2016) (dismissing patent infringement claims where plaintiff

Google/Voxer Ex. 2023, p.10 of 24
Google, Inc. v. Voxer, Inc., et. al.
IPR2026-00423

alleged that "Defendants" infringed but did not identify specific infringing acts attributed to each defendant); *Promos Techs., Inc. v. Samsung Elecs. Co. Ltd.*, Civ. No. 18-307-RGA, 2018 WL 5630585, at *3 (D. Del. Oct. 31, 2018) (granting 12(b)(6) motion to dismiss patent infringement claims where plaintiff alleged that "Samsung" infringed but failed to identify specific infringing acts giving rise to direct and indirect infringement claims for each Samsung entity); *Midwest Energy Emissions Corp. v. Arthur J. Gallagher & Co.*, C.A. No. 19-1334-RGA-CJB, 2021 WL 2036671, at *5 (D. Del. May 20, 2021), *report and recommendation adopted in relevant part*, No. 19-CV-1334-RGA, 2021 WL 4350591 (D. Del. Sept. 24, 2021) (granting 12(b)(6) motion to dismiss patent infringement claims where allegations "le[ft] the Court and these Defendants at a loss as to what these Defendants are alleged to have done that amounts to infringement").

Moreover, as demonstrated below, Voxer's specific allegations as to specific defendants are thin and by themselves cannot plausibly support direct or indirect infringement claims.

2. Voxer fails to plead facts supporting claims against ACI

Voxer's allegations against ACI are the most glaringly deficient. Voxer fails to allege that ACI makes, uses, offers to sell, sells, or imports Twitch.tv. Voxer also fails to allege actions by ACI that amount to induced infringement, such as that ACI (1) knew of the Asserted Patents, (2) took specific acts to encourage the alleged infringing use of Twitch.tv, and (3) knew that the use of Twitch.tv constituted infringement. Likewise, Voxer fails to allege actions by ACI that constitute contributory infringement, such as that ACI (1) knew of the Asserted Patents, (2) sells, offers to sell, or imports Twitch.tv, and (3) knew that Twitch.tv was especially adapted for infringing use and lacked substantial non-infringing use.

ACI's mere ownership of Twitch (D.I. 1, ¶ 5) does not render it liable for Twitch's alleged infringement. *See StrikeForce Techs., Inc. v. PhoneFactor, Inc.*, C.A. No. 13-490-RGA-MPT, 2013 WL 6002850, at *3 (D. Del. Nov. 13, 2013), *as amended* (D. Del. Nov. 14, 2013) ("A parent

Google/Voxer Ex. 2023, p.11 of 24
Google, Inc. v. Voxer, Inc., et. al.
IPR2026-00423

company is not liable for the actions of its subsidiary solely because of the parent-subsidiary relationship."); *see also Midwest Energy* , 2021 WL 2036671, at *5 ("Just because a company is the parent of a subsidiary, that does not (without more) mean that the parent is automatically liable for patent infringement committed by the subsidiary."), *report and recommendation adopted in relevant part*, No. 19-CV-1334-RGA, 2021 WL 4350591 (D. Del. Sept. 24, 2021).

Rather, to hold ACI liable for Twitch's alleged infringement, Voxer must allege facts sufficient to pierce the corporate veil, *i.e.*, that Twitch is ACI's "alter ego"[2] or agent.[3] Voxer pleads no such facts. *See M2M Sols. LLC v. Telit Commc'ns PLC*, C.A. No. 14-1103-RGA, 2015 WL 4640400, at *3 (D. Del. Aug. 5, 2015) (dismissing infringement claims against parent company where complaint failed to allege the existence of an agency relationship between the parent company and its subsidiary); *cf. C.R. Bard, Inc. v. Guidant Corp.*, 997 F. Supp. 556, 561 (D. Del. 1998) (dismissing patent infringement claims against parent because court lacked jurisdiction over the parent for its subsidiary's actions under either an alter ego or agency theory).

Voxer's conclusory allegation that ACI "operates or is otherwise responsible for Twitch Interactive Inc. and the Accused Products, as shown by at least legal documents on Twitch's legal page" (D.I. 1, ¶ 14) is unavailing. Voxer does not allege—and none of the cited documents suggests—that ACI operates Twitch.tv. *See M2M Sols. LLC*, 2015 WL 4640400, at *3 (dismissing infringement claims where complaint failed to plead how parent company was "responsible for [the] allegedly infringing products"); *C.R. Bard*, 997 F. Supp. at 561 (dismissing claims against

[2] "In Delaware, to reach a parent corporation under the alter ego theory, the party asserting jurisdiction must establish some fraud, injustice, or inequity in the use of the corporate form." *C.R. Bard, Inc. v. Guidant Corp.*, 997 F. Supp. 556, 559 (D. Del. 1998).

[3] "Under the agency theory, the court may attribute the actions of a subsidiary company to its parent where the subsidiary acts on the parent's behalf or at the parent's direction." *C.R. Bard*, 997 F. Supp. at 560.

Google/Voxer Ex. 2023, p.12 of 24
Google, Inc. v. Voxer, Inc., et. al.
IPR2026-00423

parent company where complaint lacked specific allegations of parent's involvement in the accused product).

Voxer's allegation that ACI "operates the Amazon.com website and related architecture, which is one of the providers of the Accused Products" (*id.* ¶ 14) fares no better. Voxer does not plead any facts explaining how ACI's alleged operation of the "Amazon.com website" (an e-commerce marketplace) relates to the alleged infringement or how that website is "one of the providers" of the separate and independent Twitch.tv website.

Finally, Voxer's allegations that ACI "provide[s] video streaming and downloadable video services" (D.I. 1, ¶ 20) and uses "at least some common servers and software" with Twitch (*id.* ¶ 18) are untethered to any specific infringing activities. Voxer does not even attempt to plead facts giving rise to a plausible inference that these unidentified "video streaming and downloadable video services" infringe any Asserted Patent. Voxer also does not even attempt to explain how ACI's use of common servers (an allegation made of whole cloth) would suffice to state a plausible infringement claim against ACI.

In sum, Voxer does not allege specific facts supporting a claim for direct or indirect infringement against ACI. *See C.R. Bard*, 997 F. Supp. at 561; *see also BlackBerry Ltd. v. Nokia Corp.*, C.A. No. 17-155-RGA, 2018 WL 1401330, at *4 (D. Del. Mar. 20, 2018) (dismissing indirect and contributory infringement claims where plaintiff "provide[d] no factual basis" for parent companies' involvement in alleged infringement).

3. Voxer fails to plead facts supporting claims against AWS

Voxer fails to allege that AWS makes, offers to sell, sells, imports, or makes any infringing use of Twitch.tv. Like ACI, Voxer also fails to allege actions by AWS that amount to induced infringement or contributory infringement.

Google/Voxer Ex. 2023, p.13 of 24
Google, Inc. v. Voxer, Inc., et. al.
IPR2026-00423

Voxer's claim that AWS infringes because it "operates servers and other services used to provide the Accused Products" (D.I. 1, ¶ 15) fails as a matter of law. Twitch's alleged use of AWS servers to operate Twitch.tv does not render AWS liable for Twitch's alleged infringement. Voxer nowhere alleges any facts giving rise to an inference that AWS specifically encourages Twitch to use AWS servers in an infringing manner, that AWS servers are especially adapted for infringing uses, or that AWS servers have no substantial non-infringing use. *See Helios Streaming, LLC v. Vudu, Inc.*, C.A. No. 19-1792-CFC-SRF, 2020 WL 2332045, at *7 (D. Del. May 11, 2020), *report and recommendation adopted*, No. CV 19-1792-CFC/SRF, 2020 WL 3167641 (D. Del. June 15, 2020) (dismissing induced infringement claims because complaint did "not identify specific actions" to encourage infringement); *Uniloc 2017 LLC v. Zenpayroll, Inc.*, C.A. No. 19-1075-CFC-SRF, 2020 WL 4260616, at *6 (D. Del. July 23, 2020), *report and recommendation adopted sub nom. Uniloc 2017 LLC v. Zen Payroll, Inc.*, C.A. No. 19-1075-CFC/SRF, 2020 WL 5077416 (D. Del. Aug. 27, 2020) (dismissing contributory infringement claims based on failure to "identify[] how any component part" had "no substantial non-infringing uses").

Voxer's allegation that AWS "operate[s] its own channel on Twitch.tv" (D.I. 1, ¶ 15) also fails to state a claim for infringement. Nowhere does Voxer explain how a customer or end-user's use of Twitch.tv constitutes infringement.

Finally, Voxer's allegation that AWS is "using Twitch technology to provide live video services" (D.I. 1, ¶ 15) is deficient. Voxer makes no attempt to identify the alleged "Twitch technology" or "live video services," let alone explain how any such technology or services satisfy any claim limitation of any Asserted Patent.

Google/Voxer Ex. 2023, p.14 of 24
Google, Inc. v. Voxer, Inc., et. al.
IPR2026-00423

Once again, Voxer does not allege specific facts establishing a viable claim for direct or indirect infringement as to AWS. *See C.R. Bard*, 997 F. Supp. at 561; *BlackBerry Ltd.*, 2018 WL 1401330, at *4.

4. Voxer fails to plead facts supporting claims against Twitch

Voxer's allegations against Twitch are also deficient. For example, Voxer contends that Twitch directly infringes and indirectly infringes the very same claims of the very same Asserted Patents. (D.I. 1, ¶¶ 77-79.) But Twitch cannot, as a matter of law, directly infringe by its operation of Twitch.tv *and* induce and contribute to that very same alleged infringement. Twitch is entitled to know (and need not guess) whether it is accused of direct infringement, induced infringement, or contributory infringement-and the specific acts that allegedly give rise to that alleged infringement. *See, e.g.*, *Ancora Techs., Inc. v. Lenovo Grp.*, No. 1:19-CV-01712-CFC, 2020 WL 4530718, at *1 (D. Del. Aug. 6, 2020) ("confusing and contradictory allegations are too vague to provide Defendants with fair notice"); *Glob.-Tech Appliances, Inc. v. SEB S.A.*, 563 U.S. 754, 760-61(2011) (requiring an inducer "lead another" or "persuade another" to infringe); *New Hampshire Ins. Co. v. R.L. Chaides Const. Co.*, 847 F. Supp. 1452, 1458 (N.D. Cal. 1994) ("[O]ne who is a direct infringer cannot also be an inducer.").

5. Voxer's "joint infringement" claims are deficient

Voxer's vague allegation that "Defendants have been and are acting in concert" and are "liable jointly" (D.I. 1, ¶ 17) does not cure the fatal flaws in its pleading. To plead a claim for joint infringement, a plaintiff must allege facts "sufficient to allow a reasonable inference that all steps of the claimed method are performed and either: (1) one party exercises the requisite 'direction or control' over the others' performance or (2) the actors form a joint enterprise such that performance of every step is attributable to the controlling party[.]" *Midwest Energy*, 2021 WL 2036671, at *15 (citing *Lyda v. CBS Corp.*, 838 F.3d 1331, 1339 (Fed. Cir. 2016)).

Google/Voxer Ex. 2023, p.15 of 24
Google, Inc. v. Voxer, Inc., et. al.
IPR2026-00423

Voxer alleges none of these elements. Instead, it merely pleads "on information and belief" that ACI, AWS, and Twitch "use at least some common servers and software to provide the Accused Products." (*Id.* ¶ 18.) Such allegations do not show that the defendants acted "in concert" or specify what role each allegedly played in the infringing activities. Nor does Voxer allege any "direction or control" by any defendant or any "joint enterprise" theory. The absence of such allegations dooms Voxer's weak "joint" infringement claims. *Aeritas, LLC v. Alaska Air Grp., Inc.*, 893 F. Supp. 2d 680, 686 (D. Del. 2012) (dismissing joint infringement claim because complaint "simply set[] forth a proposition" of joint infringement unsupported by facts).

B. Voxer's Indirect Infringement Claims Fail for the Additional Reason that Voxer Does Not Plead the Required Knowledge and Intent

Voxer's indirect infringement claims fail for additional and independent reasons. Voxer fails to plead (1) pre-suit knowledge of the Asserted Patents, let alone knowledge of the alleged infringement, and (2) specific intent to encourage infringement.

1. Voxer's pre-suit indirect infringement claims should be dismissed because Voxer does not plead the requisite pre-suit knowledge

a. Voxer does not plausibly allege that the defendants had pre-suit knowledge of any of the Asserted Patents

Voxer fails to plead facts giving rise to a plausible inference that ACI, AWS, or Twitch knew about the Asserted Patents before Voxer filed suit.

'270 Patent. Voxer pleads no facts supporting a plausible inference that ACI, AWS, or Twitch had pre-suit knowledge of the '270 Patent. Voxer asserts only that "[o]n information and belief, by at least 2018, Amazon was aware of the '270 Patent and its relevance to Amazon based on Amazon's knowledge of Voxer and investigation into Voxer's patents." (D.I. 1, ¶ 80.) Voxer's unsupported allegation appears to rest on the fact that the '270 Patent issued on November 27, 2018. (D.I. 1-1, Ex. A.) But Voxer does not plead any facts giving rise to an inference that any

Google/Voxer Ex. 2023, p.16 of 24
Google, Inc. v. Voxer, Inc., et. al.
IPR2026-00423

defendant learned about the '270 Patent in the last five weeks of 2018—or any other time before Voxer filed this lawsuit. It is well settled that mere issuance of a patent is insufficient to plead pre-suit knowledge. *See MONEC Holding AG v. Motorola Mobility, Inc.,* 897 F. Supp. 2d 225, 232 (D. Del. 2012) ("pleading that the competitor would be monitoring the plaintiff's patent filings and any patents issued to it" is insufficient to establish pre-suit knowledge).

Voxer's reliance on the Meta litigation (D.I. 1, ¶ 81) is also futile. As courts in this District have observed, the "suggestion that filing a lawsuit gives actual knowledge to an unrelated party is [] fanciful." *Chalumeau Power Sys. LLC v. Alcatel-Lucent*, C.A.No. 11-1175-RGA, 2012 WL 6968938, at *1 (D. Del. July 18, 2012). Voxer's allegation that the Meta litigation "was publicly accessible, widely publicized, and known by industry participants" (D.I. 1, ¶¶ 81, 95) fares no better. Courts in this District have held that "'prominent national litigations' . . . between Plaintiff and third-party competitors" regarding the asserted patents are insufficient to infer pre-suit knowledge. *Robocast, Inc. v. YouTube, LLC*, C.A. No. 22-304-RGA, 2022 WL 16922035, at *3 (D. Del. Nov. 14, 2022); *see also SoftView LLC v. Apple Inc.*, C.A.No. 10-389-LPS, 2012 WL 3061027, at *6 (D. Del. July 26, 2012) (rejecting argument that defendant "obtained pre-suit knowledge of the [asserted patent] as a result of the media publicity surrounding the initial lawsuit" against a different party).

'557 Patent. Voxer fails to allege facts supporting an inference that any defendant had pre-suit knowledge of the '557 Patent. Voxer asserts that "[o]n information and belief, by at least 2018, Amazon was aware of the '557 Patent (including its application) and its relevance to Amazon based on Amazon's knowledge of Voxer and investigation into Voxer's patents." (D.I. 1, ¶ 94.) This allegation is not only implausible but demonstrably false. The '557 Patent did not issue until

Google/Voxer Ex. 2023, p.17 of 24
Google, Inc. v. Voxer, Inc., et. al.
IPR2026-00423

December 17, 2019 (D.I. 1-2, Ex. B), and thus none of the defendants could have known about it "by at least 2018."

Voxer also does not plead any facts showing that any defendant knew of the application that led to the '557 Patent. Even if it had, "patent knowledge may not be inferred by a patent application alone." *Cirba Inc. v. VMware, Inc.*, No. CV 19-742-GBW, 2023 WL 3151852, at *2 (D. Del. Apr. 18, 2023); *cf. State Indus., Inc. v. A.O. Smith Corp.*, 751 F.2d 1226, 1236 (Fed. Cir. 1985) ("A 'patent pending' notice gives one no knowledge whatsoever."); *Robocast*, 21 F. Supp. 3d at 335 (D. Del. 2014) (knowledge of "the patent application" does "not form a basis for a finding of willfulness").

'516, '883, and '929 Patents. Voxer's pre-suit knowledge allegations are also deficient as to the other asserted patents. Voxer asserts that "[o]n information and belief, by at least 2018, Amazon was aware of family members of the ['516, '883, and '929 Patents] (including [their] application[s]) and [their] relevance to Amazon based on Amazon's knowledge of Voxer and investigation into Voxer's patents." (D.I. 1, ¶ 108, 121, 134.) But Voxer pleads no facts showing that any defendant knew of those family members before suit, much less by 2018. Regardless, allegations that a defendant knew of related patents "are insufficient to support an inference of actual knowledge of the patents." *Jackson v. Seaspine Holdings Corp.*, C.A. No. 20-1784-RGA, 2022 WL 610703, at *5 (D. Del. Feb. 14, 2022); *see also MONEC Holding*, 897 F. Supp. 2d at 233 (knowledge of original patent did not support knowledge of reexam patent).

b. Voxer does not plausibly allege that the defendants had pre-suit knowledge of the alleged infringement

Voxer does not plead any facts giving rise to an inference that ACI, AWS, or Twitch had pre-suit knowledge of the alleged infringement. *See Cleveland Med. Devices Inc. v. ResMed Inc.*, 696 F. Supp. 3d 4, 11 (D. Del. 2023) ("[B]oth induced and contributory infringement claims

Google/Voxer Ex. 2023, p.18 of 24
Google, Inc. v. Voxer, Inc., et. al.
IPR2026-00423

require pleading knowledge of infringement of the patent."). Voxer's only potential allegation of knowledge of alleged infringement is that by 2018, "Amazon was aware of the . . . [Asserted Patents'] relevance to Amazon based on Amazon's knowledge of Voxer and investigation into Voxer's patents." (D.I. 1, ¶¶ 80, 94, 108, 121, 134.) That is insufficient to plead knowledge of infringement as a matter of law. *See Cleveland Med.*, 696 F. Supp. 3d at 12 (dismissing pre-suit inducement claim because "pleading does not contain the level of specificity that was satisfactory" to show pre-suit knowledge of infringement).

* * *

Although courts are divided on whether a complaint can serve as the basis for knowledge for post-suit indirect infringement, several in this District have held that a plaintiff cannot state a claim for indirect infringement where, as here, "the defendant's alleged knowledge of the asserted patents is based solely on the content of [the] complaint." *ZapFraud, Inc. v. Barracuda Networks, Inc.*, 528 F. Supp. 3d 247, 252 (D. Del. 2021); *Dynamic Data Techs., LLC v. Brightcove Inc.*, C.A. No. 19-1190-CFC, 2020 WL 4192613, at *3 (D. Del. July 21, 2020) ("[T]he complaint itself cannot serve as the basis for a defendant's actionable knowledge."). Here, Voxer's allegation that "Amazon was made aware of the [asserted patents] and Amazon's infringement thereof" by the Complaint itself should not support a claim for indirect infringement. (D.I. 1, ¶¶ 82, 96, 109, 122, 135.) But, at a minimum, Voxer's pre-suit indirect infringement claims should be dismissed because the Complaint fails to plead pre-suit knowledge of the Asserted Patents and the alleged infringement.

2. Voxer's entire induced infringement claim should be dismissed because Voxer does not allege facts showing specific intent to induce infringement

Voxer's induced infringement claims should be dismissed for another independent reason: Voxer does not plead facts showing that ACI, AWS, or Twitch specifically intended to induce

Google/Voxer Ex. 2023, p.19 of 24
Google, Inc. v. Voxer, Inc., et. al.
IPR2026-00423

infringement. *See IP Commc'n Sols., LLC v. Viber Media (USA) Inc.*, C.A. No. 16-134-GMS, 2017 WL 1312942, at *4 (D. Del. Apr. 5, 2017) (dismissing induced infringement due to failure to allege facts showing "specific intent to induce infringement").

The Complaint merely alleges that defendants "actively encourage[] others to make, use, sell . . . the Accused Products," but pleads no facts showing that ACI, AWS, or Twitch specifically intended to encourage any third party's direct infringement. (*See* D.I. 1, ¶¶ 78, 92, 106, 119, 132.) Although Voxer cites website links to marketing materials as "exemplary instructions from Amazon," it does not identify specific content from those "instructions" that reflects an intent to induce infringement, let alone explain how such content does so. (*See id.*) Such generic citations to defendants' website do "not identify any particular statement or material that plausibly suggests Defendants intend to induce infringement[.]" *Dodots Licensing Sols. LLC v. Lenovo Holding Co., Inc.*, C.A. No. 18-098 (MN), 2018 WL 6629709, at *4 (D. Del. Dec. 19, 2018) (dismissing inducement claim). In addition, "[a]llegations of the marketing activities of the Defendants do not, on their own, demonstrate that Defendants knew such activities were infringing or that Defendants possessed the specific intent to encourage another's infringement." *MONEC Holding AG*, 897 F. Supp. 2d at 234 (dismissing inducement claim); *see also IP Commc'n*, 2017 WL 1312942, at *4 (dismissing induced infringement as "marketing webpages" alone failed to show "specific intent to induce" infringement).

C. Voxer's Willful Infringement Claims Fail Because Voxer Has Not Alleged Facts Showing ACI, AWS, or Twitch Had the Requisite Knowledge

Voxer's willful infringement claims—both pre- and post-suit—should also be dismissed. As discussed above, Voxer has not alleged facts sufficient to show that ACI, AWS, or Twitch had pre-suit knowledge of the Asserted Patents or the alleged infringement. These failures doom Voxer's willfulness claim. *Cleveland Med.*, 696 F. Supp. 3d at 13-14 ("To sustain a willfulness

Google/Voxer Ex. 2023, p.20 of 24
Google, Inc. v. Voxer, Inc., et. al.
IPR2026-00423

claim, a plaintiff must plead both knowledge of the patent and of the infringement."); *Bos. Sci. Corp. v. Nevro Corp.*, 560 F. Supp. 3d 837, 843 (D. Del. 2021) (dismissing willful infringement claims for failure to plausibly plead knowledge of infringement on top of knowledge of the patent).

Moreover, Delaware courts have repeatedly held "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). As "[w]illful patent infringement is the rare exception, . . . when 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, Inc. v. Facebook, Inc.*, C.A. No. 20-1345-RGA, 2021 WL 4477022, at *7 (D. Del. Sept. 30, 2021). Therefore, Voxer's willful infringement claim (pre- and post-suit) fails because Defendants' "alleged knowledge of the asserted patents is based solely on the content of [Voxer's] complaint." *ZapFraud, Inc.*, 528 F. Supp. 3d at 250.

VI. CONCLUSION

For the reasons set forth above, defendants request that the Court dismiss Voxer's claims in their entirety and grant whatever other and further relief it deems just and proper.

Google/Voxer Ex. 2023, p.21 of 24
Google, Inc. v. Voxer, Inc., et. al.
IPR2026-00423

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Google/Voxer Ex. 2023, p.22 of 24
Google, Inc. v. Voxer, Inc., et. al.
IPR2026-00423

CERTIFICATE OF SERVICE

I hereby certify that on September 24, 2025, I caused the foregoing to be electronically filed with the Clerk of the Court using CM/ECF, which will send notification of such filing to all registered participants.

I further certify that I caused copies of the foregoing document to be served on September 24, 2025, upon the following in the manner indicated:

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