

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

TELECONFERENCE SYSTEMS LLC,	§	
	§	
Plaintiff,	§	
	§	
v.	§	CASE NO. 6:18-CV-234-JDK
	§	
METASWITCH NETWORKS CORP.,	§	
	§	
Defendant.	§	

ORDER DENYING DEFENDANT’S MOTION TO DISMISS

Before the Court is Defendant’s Renewed Rule 12(b)(6) Motion to Dismiss for Failure to State a Claim (Docket No. 25). Plaintiff filed its original Complaint on May 25, 2018, and First Amended Complaint on August 27, 2018. After considering Defendant’s Motion and the other relevant filings, the Court hereby **DENIES** Defendant’s Motion.

I. BACKGROUND

Plaintiff Teleconference Systems LLC (“Teleconference”) sued Defendant Metaswitch Networks Corporation (“Metaswitch”) for infringement of U.S. Patent Nos. 9,154,734 (“the ’734 Patent”); 9,253,444; and 9,419,939 (collectively, “the Patents-in-Suit”). In its renewed Motion, Defendant argues that the Court should dismiss Plaintiff’s Amended Complaint because the Patents-in-Suit claim ineligible subject matter. Docket No. 25 at 7–8.

Defendant argues, and Plaintiff does not dispute, that claim 11 of the '734 Patent is representative of the asserted claims of the Patents-in-Suit. *Id.* at 3–4, 7–8.

Claim 11 states:

11. A videoconferencing services switch adapted for deployment in a service provider Internet Protocol (IP) network and capable of processing a videoconferencing call between an origination terminal and a destination terminal, the origination and destination terminals being located on one or more subscriber IP networks, the videoconferencing services switch comprising:

a call control module capable of performing call set-up and tear-down operations and managing call data streams for the videoconferencing call;

a quality of service module capable of being configured to guarantee quality of service for the videoconferencing call placed via the switch according to the subscriber-specific settings;

a security module configured to provide firewall services for the videoconferencing call, the security module further comprising a Session Initiation Protocol (SIP) firewall module configured to use firewall settings on a per-subscriber basis to allow a subscriber-specific firewall that is custom-implemented for traffic from each subscriber;

a tunneling services module configured to provide a virtual private network (VPN) between the videoconferencing services switch and a subscriber IP network; and

a policy engine capable of being configured to enforce policies on the videoconferencing call based on subscriber-specific or user-specific settings.

'734 Patent at 14:20–46.

The '734 Patent purports to make several improvements over previous videoconferencing systems. For example, prior videoconferencing systems were based on Integrated Services Digital Network (“ISDN”) standards. However, the patent explains, ISDN videoconferencing is “extremely expensive . . . and can be

complicated to set up.” ’734 Patent at 1:38–48. The invention of the ’734 Patent, on the other hand, uses Internet Protocol (“IP”) networks. *Id.* at 3:9–12. Additionally, the ’734 Patent explains several issues with IP-based videoconferencing systems, including problems with “security, bandwidth utilization, quality of service, and deployment and management.” *Id.* at 1:58–60. Because of these issues, the ’734 Patent alleges there was “a need for a videoconferencing system, method, and device for delivering secure, high-quality videoconferencing services over an IP network to multiple enterprise subscribers in a manner that does not require expensive upgrading and customization of the enterprise network.” *Id.* at 2:66–3:4. Plaintiff asserts that the Patents-in-Suit address these problems. Docket No. 23 ¶¶ 25–28.

II. LEGAL STANDARD

A. Rule 12(b)(6) Motion for Failure to State a Claim

The Supreme Court’s opinions in *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007), and *Ashcroft v. Iqbal*, 556 U.S. 662 (2009), guide the Court in analyzing the sufficiency of Plaintiff’s Complaint under Rule 12(b)(6). These cases set forth the pleading standards applicable to evaluate Plaintiff’s patent-infringement claims. *Iqbal*, 556 U.S. at 684.

Rule 8(a)(2) provides that a complaint must include “a short and plain statement of the claim showing that the pleader is entitled to relief.” FED. R. CIV. P. 8(a)(2). The statement “must simply ‘give the defendant fair notice of what the plaintiff’s claim is and the grounds upon which it rests.’” *Swierkiewicz v. Sorema N.A.*, 534 U.S. 506, 512 (2002) (quoting *Conley v. Gibson*, 355 U.S. 41, 47 (1957)). A complaint must plead “enough facts to state a claim to relief that is plausible on its

face.” *Bell Atl. Corp.*, 550 U.S. at 570. A claim will have “facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Iqbal*, 556 U.S. at 678. The Court must accept “all well-pleaded facts in the complaint as true and viewed in the light most favorable to the plaintiff.” *Raj v. La. State Univ.*, 714 F.3d 322, 330 (5th Cir. 2013).

In the Fifth Circuit, motions to dismiss under Rule 12(b)(6) are “viewed with disfavor and are rarely granted.” *Lormand v. US Unwired, Inc.*, 565 F.3d 228, 232 (5th Cir. 2009) (quoting *Test Masters Educ. Servs., Inc. v. Singh*, 428 F.3d 559, 570 (5th Cir. 2005)); see *Lowrey v. Tex. A & M Univ. Sys.*, 117 F.3d 242, 247 (5th Cir. 1997) (quoting *Kaiser Aluminum & Chem. Sales v. Avondale Shipyards, Inc.*, 677 F.2d 1045, 1050 (5th Cir. 1982)); see also *Altman v. Key Energy Servs., LLC*, No. 2:11-CV-00495-JRG, 2012 WL 4033336, at *2 (E.D. Tex. Sept. 12, 2012). A claim cannot be dismissed under Rule 12(b)(6) unless the plaintiff “would not be entitled to relief under any set of facts or any possible theory that [it] could prove consistent with the allegations in the complaint.” *Muhammad v. Dallas Cnty. Cmty. Supervision & Corrs. Dep’t*, 479 F.3d 377, 380 (5th Cir. 2007) (citing *Jones v. Greninger*, 188 F.3d 322, 324 (5th Cir. 1999)); see also *Altman*, 2012 WL 4033336, at *1. It must appear beyond doubt that the plaintiff can prove no set of facts in support of the claim entitling them to relief. *Griffith v. Kroger Co.*, No. 9:05-CV-76-TH, 2008 WL 11347989, at *2 (E.D. Tex. Mar. 7, 2008) (citing *Conley*, 355 U.S. at 45–46).

B. Patent-Eligible Subject Matter Under 35 U.S.C. § 101

Section 101 of the Patent Act defines patent-eligible subject matter: “Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent.” 35 U.S.C. § 101. The Supreme Court has held that Section 101 includes an implicit exception: “Laws of nature, natural phenomena, and abstract ideas are not patentable.” *Alice Corp. Pty. Ltd. V. CLS Bank Int’l*, 573 U.S. 208, 216 (2014) (quoting *Ass’n for Molecular Pathology v. Myriad Genetics, Inc.*, 569 U.S. 576, 589 (2013)). This exception addresses the concern that a patent could preempt the “basic tools of scientific and technological work” if a patent claimed a law of nature, natural phenomena, or abstract idea. *Alice*, 573 U.S. at 216 (quoting *Ass’n for Molecular Pathology*, 569 U.S. at 589). However, a court must not over-generalize a patent’s claims because “[a]t some level, ‘all inventions . . . embody, use, reflect, rest upon, or apply laws of nature, natural phenomena, or abstract ideas.’” *Alice*, 573 U.S. at 217 (quoting *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 71 (2012)). Thus, the Court “must tread carefully in construing this exclusionary principle lest it swallow all of patent law.” *Id.*

In applying the Section 101 exception, “we must distinguish between patents that claim the ‘buildin[g] block[s]’ of human ingenuity and those that integrate the building blocks into something more, thereby ‘transform[ing]’ them into a patent-eligible invention.” *Id.* (quoting *Mayo*, 566 U.S. at 72, 89). To make this distinction, the Court must apply *Alice*’s two-step test. 573 U.S. at 217–18.

First, the Court must “determine whether the claims at issue are directed to a patent-ineligible concept.” *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1334 (Fed. Cir. 2016) (quoting *Alice*, 573 U.S. at 218). To make this determination, the Court must “articulate what the claims are directed to with enough specificity to ensure the step one inquiry is meaningful.” *Thales Visionix Inc. v. United States*, 850 F.3d 1343, 1347 (Fed. Cir. 2017). In the step one inquiry, the Court asks “whether the focus of the claims is on the specific asserted improvement in computer capabilities . . . or, instead, on a process that qualifies as an ‘abstract idea’ for which computers are invoked merely as a tool.” *Enfish*, 822 F.3d at 1335–36; see *Uniloc USA, Inc. v. ADP, LLC*, 279 F. Supp. 3d 736, 741 (E.D. Tex. 2017).

Second, if the claims are directed to a patent-ineligible concept, then the Court “consider[s] the elements of each claim both individually and ‘as an ordered combination’ to determine whether the additional elements ‘transform the nature of the claim’ into a patent-eligible application.” *Alice*, 573 U.S. at 217 (quoting *Mayo*, 566 U.S. at 78–79). The additional elements “must be more than ‘well-understood, routine, conventional activity.’” *Ultramercial, Inc. v. Hulu, LLC*, 772 F.3d 709, 715 (Fed. Cir. 2014) (quoting *Mayo*, 566 U.S. at 79). However, “even if each claim element, by itself, was known in the art, ‘an inventive concept can be found in the non-conventional and non-generic arrangement of known, conventional pieces.’” *Uniloc USA, Inc. v. Med. Info. Tech., Inc.*, No. 6:16-CV-00463-RWS, 2017 WL 3707439, *2 (E.D. Tex. Mar. 30, 2017) (quoting *Bascom Global Internet Servs., Inc. v. AT&T Mobility LLC*, 827 F.3d 1341, 1350 (Fed. Cir. 2016)).

III. ANALYSIS

A. Plaintiff's Asserted Patent Claims Are Not Directed to an Abstract Idea.

Defendant argues that the asserted claims of the Patents-in-Suit are directed to the abstract idea of videoconferencing, which Defendant argues is “an abstraction—an idea, having no particular concrete or tangible form.” Docket No. 25 at 8 (quoting *Ultramercial*, 772 F.3d at 715). Defendant compares the asserted claims to those the Federal Circuit found ineligible in *Internet Patents Corp. v. Active Network, Inc.*, 790 F.3d 1343 (Fed. Cir. 2015), and *Vehicle Intelligence and Safety LLC v. Mercedes-Benz USA, LLC*, 635 F. App'x 914, 917 (Fed. Cir. 2015). Docket No. 25 at 9–11.

Plaintiff argues that the asserted claims are directed to a specific device—a “new and improved” videoconferencing services switch—not an abstract idea. Docket No. 35 at 3–12. Plaintiff further argues that the asserted claims are directed to specific improvements in computing-related devices, improving on shortcomings in the prior art. *Id.* at 6–11. Specifically, Plaintiff explains that the Patents-in-Suit claim a videoconferencing services switch for use on IP networks and comprised of specific, structural components like the modules and the policy engine. *Id.* at 6–7. Plaintiff also challenges Defendant's view that “videoconferencing” is an abstract idea. *Id.* at 11–12.

The Court finds that the asserted claims of the Patents-in-Suit are not directed to an abstract idea. During this first step, it is crucial to “articulate what the claims are directed to with enough specificity to ensure the step one inquiry is meaningful,”

Thales, 850 F.3d at 1347, because all patents “embody, use, reflect, rest upon, or apply laws of nature, natural phenomena, or abstract ideas.” *Alice*, 573 U.S. at 217 (quoting *Mayo*, 566 U.S. at 71). Defendant argues that the asserted claims are directed to the broad idea of “videoconferencing.” Docket No. 25 at 8–12. But the asserted claims focus on a specific device—an allegedly improved videoconferencing services switch—not merely the idea of videoconferencing itself.

Representative claim 11 recites: “A videoconferencing services switch adapted for deployment in a service provider [IP] network and capable of processing a videoconferencing call between an origination terminal and a destination terminal, the origination and destination terminals being located on one or more subscriber IP networks,” and comprised of a call control module, quality of service module, security module, tunneling services module, and policy engine. ’734 Patent at 14:20–46. As the language demonstrates, claim 11 is not directed to videoconferencing generally, but rather, it claims a specific videoconferencing services switch for use in an IP network and including the claimed modules and policy engine. The other asserted claims are similarly directed to specific videoconferencing services switches. See ’444 Patent at 13:30–44, 14:38–56, 15:10–16:2; ’939 Patent at 13:28–41, 14:33–56, 15:14–16:2.

Other language in the ’734 Patent specification further demonstrates the goals of the patent. Specifically, the ’734 Patent sought to improve the “security, bandwidth utilization, quality of service, and deployment and management” in videoconferencing services switches. ’724 Patent at 1:58–60. It also sought to fill a

need “for a videoconferencing system, method, and device for delivering secure, high-quality videoconferencing services over an IP network to multiple enterprise subscribers in a manner that does not require expensive upgrading and customization of the enterprise network.” *Id.* at 2:66–3:4. Thus, the “focus of the claims is on [a] specific asserted improvement” in the capabilities of videoconferencing services switches rather than on an abstract idea “for which computers are invoked merely as a tool.” *See Enfish*, 822 F.3d at 1335–36.

Defendant’s reliance on *Internet Patents* and *Vehicle Intelligence* is inapposite. Docket No. 25 at 9–11. In *Internet Patents*, the Federal Circuit held that the claimed invention was directed to the abstract idea “of retaining information in the navigation of online forms” because the patent claimed well-understood, routine, and conventional activities; included no restrictions on how the desired result was accomplished; and did not describe the mechanism for the desired result. 790 F.3d at 1348. Similarly, in *Vehicle Intelligence*, the Federal Circuit found the asserted claims were directed at the abstract idea of “testing operators of any kind of moving equipment for any kind of physical or mental impairment” because the claims were not limited and did not explain how the claimed invention performed its functions. 635 F. App’x. at 917–19. The asserted claims here are not so broad. Rather, because the asserted claims are more limited, they do not raise the same preemption concerns as in *Internet Patents* and *Vehicle Intelligence*.

Because the asserted claims of the Patents-in-Suit are directed to a specific implementation of a videoconferencing services switch rather than an abstract idea, the claims are not patent ineligible under step 1 of the *Alice* test.

B. The Asserted Claims of the Patents-in-Suit Transform any Potential Abstract Idea into a Patent-Eligible Invention.

Even if the Court were to conclude that the asserted claims of the Patents-in-Suit were directed to an abstract idea, the Court finds there are “additional elements [that] ‘transform the nature of the claim’ into a patent-eligible application.” *Alice*, 573 U.S. at 217 (quoting *Mayo*, 566 U.S. at 78–79).

Defendant argues that the asserted claims are too generic and broad to be patent eligible. Docket No. 25 at 12–13. According to Defendant, the modules and the policy engine are generic, known components applied for their conventional purposes. *Id.* Thus, Defendant argues, the asserted claims are not inventive, but rather claim only well-understood, routine, and conventional functionality. *Id.* at 14–15. Defendant also argues that the asserted claims merely describe the desired results of the invention and lack specific mechanisms or methodologies. *Id.* at 15.

Plaintiff responds that the asserted claims recite an inventive concept because they provide a limited and specific solution to a technology-related problem. Docket No. 35 at 13–15. Plaintiff further argues that Defendant fails to meet its burden to prove that the asserted claims are routine, conventional, and well-known. *Id.* at 15–16.

“[S]pecific technologic modifications to solve a problem or improve the functioning of a known system generally produce patent-eligible subject matter.”

Trading Techs. Int'l Inc. v. CQG, Inc., 675 F. App'x. 1001, 1004–05 (Fed. Cir. 2017). Further, claims “necessarily rooted in computer technology in order to overcome a problem specifically arising in the realm of computer networks” do not merely recite an abstract idea. *DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245, 1257 (Fed. Cir. 2014). The Court is persuaded that the asserted claims of the Patents-in-Suit are directed to a technical solution to a technical problem. For example, claim 11 of the '734 Patent does not recite the alleged abstract idea of videoconferencing and then “merely require generic computer implementation.” *Alice*, 573 U.S. at 221. Rather, it claims a specific videoconferencing services switch designed to address problems with prior ISDN videoconferencing systems and to address “a number of fundamental problems” for videoconferencing over IP networks. '734 Patent at 1:30–3:4. Specifically, the '734 Patent describes a new videoconferencing services switch comprised of several modules and a policy engine to improve on the “security, bandwidth utilization, quality of service, and deployment and management” in videoconferencing technology. *Id.* at 1:58–60. Thus, the '734 Patent purports to “effect an improvement” in videoconferencing systems technology. *Alice*, 573 U.S. at 225. Further, even if the Court agreed with Defendant that each specific claim element by itself—the claim’s modules and policy engine—were routine, conventional, and well-known, the Court still finds that an inventive concept is “found in the non-conventional and non-generic arrangement of [the] known, conventional pieces.” *Bascom Global Internet Services, Inc. v. AT&T Mobility LLC*, 827 F.3d 1341, 1350 (Fed. Cir. 2016).

Accordingly, even if the Court agreed with Defendant that the asserted claims were directed to an abstract idea, the Court finds that the asserted claims remain patent eligible under step 2 of the *Alice* test.¹

IV. CONCLUSION

Because the Court does not find that the asserted claims of the Patents-in-Suit are directed to patent-ineligible subject matter under 35 U.S.C. § 101, Plaintiff's Amended Complaint states plausible claims for relief. Accordingly, the Court **DENIES** Defendant's Motion to Dismiss.

So **ORDERED** and **SIGNED** this **5th** day of **February, 2019**.



JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE

¹ The Court notes that many of Defendant's arguments would be appropriately addressed as 35 U.S.C. § 103 obviousness and 35 U.S.C. § 112(f) invalidity arguments. The Court does not address these arguments at this time.