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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

TRIDIM INNOVATIONS LLC,
Plaintiff,
v.
AMAZON.COM, INC.,
Defendant.

Case No. [3:15-cv-05477-JD](#)

ORDER RE DISMISSAL
Re: Dkt. No. 27

TriDim Innovations LLC (“TriDim”) filed this patent infringement suit against Amazon.com, Inc. (“Amazon”) in December 2015. Dkt. No. 1. The case involves two patents owned by TriDim: (1) U.S. Patent No. 5,838,326, entitled “System for Moving Document Objects in a 3-D Workspace” (“’326 patent”); and (2) U.S. Patent No. 5,847,709, entitled “3-D Document Workspace with Focus, Immediate and Tertiary Spaces” (“’709 patent”). Dkt. No. 1 ¶¶ 6-12. TriDim alleges that the “carousel” feature in Amazon’s Kindle Fire and Fire Phone infringes the two patents. Amazon moves to dismiss TriDim’s claims for invalidity under 35 U.S.C. § 101. Dkt. No. 27. The Court held oral argument and now dismisses the complaint with prejudice.

BACKGROUND

Inventors from the Xerox Corporation filed the ’326 and ’709 patents in separate applications on September 26, 1996. Dkt. Nos. 1-1, 1-2. The patents issued on November 17, 1998 and December 8, 1998, respectively, and are both set to expire on September 26, 2016. *Id.* TriDim obtained assignment of the patents. Dkt. No. 1 ¶¶ 6, 10. At the hearing on this motion, the parties advised the Court that the only claims at issue here are claim 14 of the ’326 patent and claims 1 and 9 of the ’709 patent. Dkt. No. 38.

The two patents have almost identical summaries and specifications. They both claim the invention of “[a] three dimensional document workspace for interacting with large numbers of

1 document objects,” designed to help “balanc[e] the necessary tradeoffs of rapid access, number of
2 collections and associated documents, and available screen space.” Dkt. No. 1-1 at 2:65-66, 4:10-
3 14; Dkt. No. 1-2 at 2:66-67, 4:10-14. Specifically, the patents provide a system for
4 “hierarchically” dividing a computer workspace for documents into three areas depending on the
5 user’s “interaction rates” with certain documents: (1) “focus space” where “direct interaction with
6 a document object occurs”; (2) “immediate memory space” where “document objects that are in
7 use, but not currently being interacted with” are placed; and (3) “tertiary space” where “many
8 document objects . . . that are not currently in use” are placed. Dkt. No. 1-1 at 3:14-33; Dkt. No.
9 1-2 at 3:15-34. In the specification, the patentee analogizes these spaces, respectively, to (1) a
10 “desk” where documents in use are placed, (2) a space behind the desk where objects are depicted
11 as “smaller in size” as they get a further “distance back (i.e. in the z-direction),” and (3) a
12 “bookshelf” for items “not currently in use.” Dkt. No. 1-1 at 3:21-33.

13 Each of the asserted claims describes a “computer controlled display system” with these
14 features. For example, claim 14 of the ’326 patent, which is typical of the asserted claims in both
15 patents, covers:

- 16 1. A computer controlled display system for displaying
17 document objects in a three-dimensional document workspace on a
18 display, said computer controlled display system comprising:
19 document receiving means for receiving document objects;
20 positioning means for receiving user input for positioning document
21 objects within said three-dimensional document workspace;
22 workspace display circuitry for generating display information for
23 displaying said three-dimensional document workspace and said
24 document objects, said workspace display circuitry comprising:
25 circuitry for displaying a focus space, said focus space for detail
26 display of a document object;
27 circuitry for displaying an immediate space, said immediate
28 space for ephemeral positioning of document objects that are in
use but not in focus; and
circuitry for displaying a tertiary space, said tertiary space for
positioning document objects that are not in use.

Dkt No. 1-1 at 12:57-13:10. All the asserted claims describe a “computer controlled display

1 system” similar to this one, though claim 1 of the ’709 patent lacks a “positioning means”
2 element. *See* Dkt. No. 1-2 at 10:64-11:14.

3 The “positioning means” element of claim 9 of the ’709 patent and claim 14 of the ’326
4 allows movement of document objects on the workspace. The specifications describe a few types
5 of “gestures” that may be used to move documents among the focus, intermediate, and tertiary
6 spaces. One called “touch [and] drop” consists of touching a document object by “positioning a
7 cursor over it and depressing a cursor control button, tracing the cursor movement with a line, and
8 then dropping the object by releasing the cursor control button at the end point of the line.” Dkt.
9 No. 1-1 at 8:65-9:2; Dkt. No. 1-2 at 9:2-6. Another gesture, “flicking,” consists of “touching the
10 object and ‘flicking’ it using the cursor control device in a desired direction.” Dkt. No. 1-1 at
11 9:48-56; Dkt. No. 1-2 at 9:52-60.¹

12 The patents do not involve special software or hardware of any type. The system and
13 gestures can be used on a “Silicon Graphics workstation,” as this system “provides for generating
14 software programs which manipulate graphical objects in a three dimensional space, so description
15 of programming techniques for rendering graphical objects in a three dimensional space is not
16 deemed necessary” in the specification. Dkt. No 1-1 at 5:29-37; Dkt. No. 1-2 at 5:33-41. In
17 addition, the patent states that a person of skill in the art could implement the invention on any
18 commercially available computer with the functionality for “manipulating graphical objects in a
19 three dimensional space.” Dkt. No. 1-1 at 5:38-43; Dkt. No. 1-2 at 5:42-47.

20 Amazon contends that the patents are invalid under 35 U.S.C. Section 101, as applied in
21 *Alice Corp. Pty. Ltd v. CLS Bank Int’l*, 134 S.Ct. 2347 (2014). According to Amazon, the asserted
22 claims are directed to the abstract idea of “retrieving and arranging documents,” and fail to recite
23 any additional elements that transform the claims into patentable subject matter. Dkt. No. 27 at
24 12, 14.

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28 ¹ To the extent the means of moving document objects involve a “pointer device having a switch,”
they are covered by Claims 1 and 6 of the ’326 patent and are outside the scope of this order.

1 **DISCUSSION**

2 **I. LEGAL STANDARDS**

3 Under Federal Rule of Civil Procedure 12(b)(6), a district court must dismiss a complaint
4 if it fails to state a claim upon which relief can be granted. To survive a motion to dismiss, the
5 plaintiff must allege “enough facts to state a claim to relief that is plausible on its face.” *Bell*
6 *Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007). “A claim has facial plausibility when the
7 plaintiff pleads factual content that allows the court to draw the reasonable inference that the
8 defendant is liable for the misconduct alleged.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)
9 (citing *Twombly*, 550 U.S. at 556).

10 This motion involves determining the scope of patent eligibility under 35 U.S.C. § 101. In
11 deciding the motion, the Court need not construe the patent claims. Although every issued patent
12 is presumed to be valid absent clear and convincing evidence to the contrary, courts may find
13 patents invalid at the pleading stage and prior to formal claim construction. *See, e.g., buySAFE,*
14 *Inc. v. Google, Inc.*, 765 F.3d 1350 (Fed. Cir. 2014) (affirming a district court’s finding of
15 invalidity under Section 101 at the pleading stage); *Open Text S.A. v. Al Fresco Software Ltd*, No.
16 13-CV-04843-JD, 2014 WL 4684429, at *5 (N.D. Cal. Sept. 19, 2014) (granting a 12(b)(6) motion
17 because the asserted patents were ineligible). “Although the determination of patent eligibility
18 requires a full understanding of the basic character of the claimed subject matter, claim
19 construction is not an inviolable prerequisite to a validity determination under § 101.” *Content*
20 *Extraction & Transmission LLC v. Wells Fargo Bank, Nat. Ass’n*, 776 F.3d 1343, 1349 (Fed. Cir.
21 2014), *cert. denied*, 136 S.Ct. 119 (2015). In this case, parties do not dispute the proper
22 construction of any terms in the asserted claims, and so the Court finds it unnecessary to engage in
23 claim construction before addressing the validity of the patents under Section 101.

24 Under Section 101, the scope of patentable subject matter includes “any new and useful
25 process, machine, manufacture, or composition of matter, or any new and useful improvement
26 thereof.” 35 U.S.C. § 101. But “laws of nature, physical phenomena, and abstract ideas” are three
27 “specific exceptions to § 101’s broad patent-eligibility principles.” *Bilski v. Kappos*, 561 U.S.
28 593, 601 (2010). In applying the Section 101 exceptions, the Court must distinguish between

1 patents that claim the “building blocks of human ingenuity” and those that “integrate the building
2 blocks into something more,” because overbroad patent protection “would risk disproportionately
3 tying up the use of the underlying ideas.” *Alice*, 134 S.Ct. at 2354-55 (internal quotation marks
4 and citation omitted).

5 In *Alice*, the Supreme Court set out a two-part test for determining whether a claim is
6 patent-eligible. The Court must first “determine whether the claims at issue are directed to a
7 patent-ineligible concept.” *Id.* at 2347. For computing-related functionality, the inquiry at this
8 first step “asks whether the focus of the claims is on the specific asserted improvement in
9 computer capabilities (*i.e.*, the self-referential table for a computer database) or, instead, on a
10 process that qualifies as an ‘abstract idea’ for which computers are invoked merely as a tool.”
11 *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1335-36 (Fed. Cir. 2016). This inquiry
12 distinguishes between claims “directed to a specific improvement to computer functionality,”
13 which may be patentable, and claims that recite only “generalized steps to be performed on a
14 computer using conventional computer activity,” which would not be patentable. *Id.* at 1338.

15 If a patent is directed to a patent-ineligible concept, then the second step of the *Alice* test
16 requires the Court to search for an “inventive concept” that may save the patent. *IPLearn-Focus,*
17 *LLC v. Microsoft Corp.*, No. 14-CV-00151-JD, 2015 WL 4192092, at *4 (N.D. Cal. July 10, 2015)
18 (internal quote omitted), *aff’d*, 2016 WL 3667604 (Fed. Cir. July 11, 2016). This is a “make-or-
19 break step for patent eligibility” that requires “an element or combination of elements that is
20 ‘sufficient to ensure that the patent in practice amounts to significantly more than’” a patent on an
21 ineligible concept. *Id.* (quoting *Internet Patents Corp. v. Active Network, Inc.*, 790 F.3d 1343,
22 1344 (Fed. Cir. 2015)). As the Supreme Court and the Federal Circuit have made perfectly clear,
23 merely implementing an abstract idea on conventional computer technology is not enough. Patent
24 eligibility requires “concrete improvements in the recited computer technology.” *Enfish*, 822 F.3d
25 at 1339; *see also Bilski*, 561 U.S. at 610–11 (limiting use of an abstract idea “to a particular
26 technological environment” insufficient for eligibility); *In re TLI Commc'ns LLC Patent Litig.*,
27 823 F.3d 607, 613 (Fed. Cir. 2016) (“[T]he claims’ recitation of a ‘telephone unit,’ a ‘server,’ an
28 ‘image analysis unit,’ and a ‘control unit’ fail to add an inventive concept sufficient to bring the

1 abstract idea into the realm of patentability.”).

2 **II. THE CLAIMS ARE NOT PATENT ELIGIBLE**

3 **A. The Claims are Directed to an Abstract Idea**

4 By their plain language, TriDim’s claims are drawn to the very basic concept of retrieving
5 and arranging documents based on frequency of use. Claim 14 of the ‘326 patent claims a way of
6 displaying document objects on a three-dimensional workspace, comprising of “[1] document
7 receiving means . . . ; [2] positioning means . . . ;[3] workspace display circuitry . . . comprising
8 circuitry for displaying a focus space . . . for detail display of a document object; circuitry for
9 displaying an immediate space . . . for ephemeral positioning of document objects that are in use
10 but not in focus; and circuitry for displaying a tertiary space . . . for positioning document objects
11 that are not in use.” Dkt. No. 33-1, 12:57-13:10. Claims 1 and 9 of the ‘709 patent are
12 substantially similar in language. Dkt. No. 33-2, 10:64-11:14, 12:5-23. Despite the repeated use
13 of the word “circuitry,” no such circuitry is disclosed in the patents. Much like the unpatentable
14 subject matter in *TLI Communications*, the claims in question here are defined only in terms of
15 their functions, which are directed to the abstract idea of retrieving and arranging documents by
16 relative frequency of use. *In re TLI Commc'ns LLC Patent Litig.*, 823 F.3d at 613 (“[T]he claims,
17 as noted, are simply directed to the abstract idea of classifying and storing digital images in an
18 organized manner.”).

19 None of TriDim’s arguments suggest a different conclusion. TriDim emphasizes that the
20 patents are “directed to a *computer user interface*,” but does not explain why or how this label
21 transforms the abstract idea into a patent-eligible invention. Dkt. No. 33 at 15 (emphasis in
22 original). TriDim also says that the limitation of dividing a computer display into three spaces
23 “confine[s] the invention to a specific system and method” and consequently is “not an abstract
24 idea.” Dkt. No. 33 at 13. This is mere window dressing. The patents themselves analogize the
25 “immediate memory” and “tertiary” spaces to a “desk” and a “bookshelf.” Dkt. No. 33-1, 3:23-
26 33; Dkt. No. 33-2, 3:24-34. This shows that the patents represent nothing more than the abstract
27 idea of placing more frequently used documents in a space that is more easily accessible -- an
28 organizational system people intuitively use in a variety of contexts. *See Genetic Techs. Ltd. v.*

1 *Merial L.L.C.*, 818 F.3d 1369, 1378 (Fed. Cir. 2016) (quoting *CyberSource Corp. v. Retail*
2 *Decisions, Inc.*, 654 F.3d 1366, 1373 (Fed.Cir.2011)) (“[M]ethods which can be performed
3 *entirely* in the human mind are unpatentable.”) (emphasis in original).

4 As a final defense, TriDim contends that the patents are not directed to an abstract idea,
5 because “the claims were ‘necessarily rooted in computer technology in order to overcome a
6 problem specifically arising in the realm of computer networks.’” Dkt. No. 33 at 14 (citing *DDR*
7 *Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245, 1257 (Fed. Cir. 2014)). But that argument
8 misses the mark because the Federal Circuit’s analysis in *DDR Holdings* was under the second
9 prong of the *Alice* test, addressing whether there is “an inventive concept sufficient to transform
10 the claimed abstract idea into a patent-eligible application.” *Alice Corp.*, 124 S. Ct. at 2357; *see*
11 *DDR Holdings, LLC*, 773 F.3d at 1257 (“[U]nder any of these characterizations of the abstract
12 idea, the ‘399 patent’s claims satisfy *Mayo/Alice* step two.”).

13 **B. The Claims Lack an Inventive Concept**

14 The test of whether the claims present an inventive concept sufficient to save them from
15 ineligible abstraction also comes out against TriDim. Unlike the claims in *DDR Holdings*, neither
16 the problem TriDim’s patents purportedly solve (limited screen space for the display and
17 organization of documents) nor the suggested solution (arranging documents by frequency of use)
18 is “necessarily rooted in computer technology.” *DDR Holdings, LLC*, 773 F.3d at 1257; Dkt. No.
19 33 at 14. To the contrary, storing documents that are less frequently used in a library or on a
20 bookshelf as opposed to on one’s desk is a common solution to a common problem of limited
21 space in physical offices everywhere. It is hard to picture any office, dorm room, or workspace
22 since the advent of the printing press that did not follow this basic concept of organization. By
23 TriDim’s own admission, the patents were “specifically intended to be used with a typical
24 computer.” Dkt. No. 33 at 8. But applying a “commonplace” method of organization to a
25 “particular technological environment[.]” does not constitute an inventive concept, and the patents
26 here fall squarely within the type of inventions that the Supreme Court explicitly found invalid in
27 *Alice. Versata Dev. Grp., Inc. v. SAP Am., Inc.*, 793 F.3d 1306, 1333 (Fed. Cir. 2015); *see Alice*,
28 134 S. Ct. 2347 at 2359.

1 The elements of the claims that relate to the means of moving and positioning the
2 document objects suffer from the same lack of inventive concept. According to TriDim, the
3 “touch and drop” and “flicking” gestures were “improvements specifically adapted for a 3-D
4 space” because “known techniques for operating a 2-D workspace such as drag and drop
5 techniques were not efficient.” Dkt. No. 33 at 15. But the patents do not disclose any specific
6 ways, hardware or software, that a user may program or implement these gestures. *See* Dkt. Nos.
7 33-1, 33-2. Instead, the claims are no more than circular definitions. For example, Claim 14 of
8 the patent ‘326 claims a “computer controlled display system” being comprised of among other
9 things “document receiving means for receiving document objects; [and] positioning means . . .
10 for positioning document objects within said three-dimensional document workspace.” Dkt. No.
11 33-1, 12:61-65. The “positioning means” is in turn defined as being comprised of “a selection
12 means for selecting a document object; and means for indicating a destination.” *Id.* at 13:12-14:3.
13 And the “selection means” and “means for indicating a destination” are defined in equally circular
14 terms. *Id.* at 14:4-11. These elements that are defined only in terms of their functionalities,
15 whether considered separately or as an ordered combination, fall short of constituting an inventive
16 concept.

17 An additional problem for TriDim is that the patents and claims here, which are defined in
18 terms of their functionalities only, raise a serious preemption concern. *See Vehicle Intelligence &*
19 *Safety LLC v. Mercedes-Benz USA, LLC*, 635 F. App’x 914, 918 (Fed. Cir. 2015). TriDim tries to
20 minimize the preemption threat by comparing the patents to the prior art identified in the ‘326 and
21 ‘709 patents. Dkt. No. 33, 15-16. But the “mere existence of a non-preempted use of an abstract
22 idea does not prove that a claim is drawn to patent-eligible subject matter.” *Id.* Moreover, the
23 very fact that TriDim brought this patent infringement suit against Amazon’s carousel feature
24 makes its disclaimer of preemption sound rather hollow. If TriDim is in fact correct that a slight
25 change in the way the documents are stacked or organized makes a particular computer user
26 interface non-preempted, Dkt. No. 33 at 15-16, Amazon’s carousel feature surely cannot infringe
27 TriDim’s patents. TriDim cannot circumvent “the prohibition against patent abstract ideas” “by
28 attempting to limit the use of [the idea],” even if “doing so reduces the amount of innovation that

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would be preempted.” *IPLearn-Focus*, 2015 WL 4192092, at *6.

CONCLUSION

Claim 14 of the ‘326 patent and Claims 1 and 9 of the ‘709 patent constitute a wholly generic computer implementation of the abstract idea of retrieving and arranging documents based on relative frequency of use. The motion to dismiss is granted. Because the Court finds that any amendment would be futile, the dismissal is with prejudice.

IT IS SO ORDERED.

Dated: September 19, 2016



JAMES DONATO
United States District Judge