IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

RIDESHARE DISPLAYS, INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	C.A. No. 20-1629-RGA-JLH
LYFT, INC.,	)	
	)	
Defendant.	)	
	)	

REPORT AND RECOMMENDATION

Pending before the Court is Defendant Lyft, Inc.'s Motion to Dismiss the Complaint Pursuant to Fed. R. Civ. P. 12(b)(6). (D.I. 14.) As announced at the hearing on June 10, 2021, I recommend that the Court DENY Lyft, Inc.'s motion without prejudice to Lyft's ability to raise its 35 U.S.C. § 101 arguments at the summary judgment stage.

I. LEGAL STANDARDS

A. Motion to Dismiss for Failure to State a Claim

A defendant may move to dismiss a complaint under Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim. "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)). A claim is plausible on its face when the complaint contains "factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Id.* (citing *Twombly*, 550 U.S. at 556). A possibility of relief is not enough. *Id.* "Where a complaint pleads facts that are 'merely consistent with' a defendant's liability, it 'stops short of the line between possibility and plausibility of entitlement to relief.'" *Id.* (quoting *Twombly*, 550

U.S. at 557).

In determining the sufficiency of the complaint, I must assume all "well-pleaded facts" are true but need not assume the truth of legal conclusions. *Id.* at 679. "[W]hen the allegations in a complaint, however true, could not raise a claim of entitlement to relief, this basic deficiency should be exposed at the point of minimum expenditure of time and money by the parties and the court." *Twombly*, 550 U.S. at 558 (internal quotation marks omitted).

B. Patent Eligibility Under 35 U.S.C. § 101

Section 101 defines the categories of subject matter that are patent eligible. It provides: "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 therefor, subject to the conditions and requirements of this title." 35 U.S.C. § 101. The Supreme Court has recognized three exceptions to the broad statutory categories of patent-eligible subject matter: "laws of nature, natural phenomena, and abstract ideas" are not patent-eligible. *Diamond v. Diehr*, 450 U.S. 175, 185 (1981). "Whether a claim recites patent-eligible subject matter is a question of law which may contain disputes over underlying facts." *Berkheimer v. HP Inc.*, 881 F.3d 1360, 1368 (Fed. Cir. 2018).

The Supreme Court has established a two-step test for determining whether patent claims are invalid under 35 U.S.C. § 101. *Alice Corp. v. CLS Bank Int'l*, 573 U.S. 208 (2014). In step one, the court must "determine whether the claims at issue are directed to a patent-ineligible concept." *Alice*, 573 U.S. at 218. This first step requires the court to "examine the 'focus' of the claim, i.e., its 'character as a whole,' in order to determine whether the claim is directed to an abstract idea." *Epic IP LLC v. Backblaze, Inc.*, 351 F. Supp. 3d 733, 736 (D. Del. 2018) (Bryson, J.) (quoting *SAP Am., Inc. v. InvestPic, LLC*, 898 F.3d 1161, 1167 (Fed. Cir. 2018); *Internet Patents Corp. v. Active Network, Inc.*, 790 F.3d 1343, 1346 (Fed. Cir. 2015)).

Because "all inventions . . . embody, use, reflect, rest upon, or apply laws of nature, natural phenomena, or abstract ideas," *Mayo Collaborative Servs. v. Prometheus Labs.*, 566 U.S. 66, 71 (2012), "courts 'must be careful to avoid oversimplifying the claims' by looking at them generally and failing to account for the specific requirements of the claims." *McRO v. Bandai Namco Games Am. Inc.*, 837 F.3d 1299, 1313 (Fed. Cir. 2016) (quoting *In re TLI Commc'ns LLC Pat. Litig.*, 823 F.3d 607, 611 (Fed. Cir. 2016)); *see also Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1337 (Fed. Cir. 2016) ("[D]escribing the claims at [too] high [a] level of abstraction and untethered from the language of the claims all but ensures that the exceptions to § 101 swallow the rule."). "At step one, therefore, it is not enough to merely identify a patent-ineligible concept underlying the claim; [the court] must determine whether that patent-ineligible concept is what the claim is 'directed to.'" *Rapid Litig. Mgmt. Ltd. v. CellzDirect, Inc.*, 827 F.3d 1042, 1050 (Fed. Cir. 2016). If the claims are not directed to a patent-ineligible concept, then the claims are patent-eligible under § 101 and the analysis is over. If, however, the claims are directed to a patent-ineligible concept, then the analysis proceeds to step two.

At step two, the court "consider[s] the elements of each claim both individually and as an ordered combination" to determine if there is an "inventive concept—*i.e.*, an element or combination of elements that is sufficient to ensure that the patent in practice amounts to significantly more than a patent upon the [ineligible concept] itself." *Alice*, 573 U.S. at 217-18 (internal quotations and citations omitted). "It is well-settled that mere recitation of concrete, tangible components is insufficient to confer patent eligibility to an otherwise abstract idea." *TLI Commc'ns*, 823 F.3d at 613. Thus, "[m]erely reciting the use of a generic computer or adding the words 'apply it with a computer'" does not transform a patent-ineligible concept into patent eligible subject matter. *Two-Way Media Ltd. v. Comcast Cable Commc'ns, LLC*, 874 F.3d 1329,

1338 (Fed. Cir. 2017) (quoting *Alice*, 573 U.S. at 223). Nor is there an inventive concept when the claims "[s]imply append[ ] conventional steps, specified at a high level of generality" to a patent ineligible concept. *Alice*, 573 U.S. at 222.

Conversely, claims pass muster at step two when they "involve more than performance of well-understood, routine, and conventional activities previously known to the industry." *Berkheimer*, 881 F.3d at 1367 (citation and internal marks omitted). "The mere fact that something is disclosed in a piece of prior art . . . does not mean it was well-understood, routine, and conventional." *Id.* at 1369. Moreover, "an inventive concept can be found in the non-conventional and non-generic arrangement of known, conventional pieces." *Bascom Glob. Internet Servs., Inc. v. AT&T Mobility LLC*, 827 F.3d 1341, 1350 (Fed. Cir. 2019). Whether an activity was well-understood, routine, or conventional to a person of ordinary skill in the art is a question of fact. *Berkheimer*, 881 F.3d at 1368.

II. DISCUSSION

My report and recommendation regarding the pending motion was announced from the bench at the conclusion of the hearing as follows:

> This is my report and recommendation on the pending motion to dismiss for failure to state a claim in *RideShare Displays, Inc. v. Lyft, Inc*. That's [Civil Action] Number 20-1629. The motion is at Docket Number 14.
>
> I have reviewed the parties' briefing on the motion as well as their supplemental 101-day letters.[1] I've also carefully considered the argument[s] that the parties made this morning at the hearing. I will summarize the reason[s] for my recommendation [in a moment], but before I do, I want to be clear that my failure to address [a] particular argument[ ] does not mean that I did not consider it. I also note that, while we will not be issuing a separate,

[1] (D.I. 15, 17, 20, 39, 40.)

written recommendation, we will issue a written document incorporating the recommendation I'm about to make.

For the following reasons, I recommend that the Court deny Lyft's motion to dismiss without prejudice to Lyft's ability to renew its § 101 arguments at the summary judgment stage.

[Background]

RSDI filed this suit for patent infringement on November 30, 2020, and, shortly thereafter, filed its first amended complaint.[2] RSDI's amended complaint asserts five patents against Lyft. All five are entitled "Vehicle Identification System," and they all have the same specification.[3] There are a total of 45 claims across the five patents.

On February 9, 2021, Lyft moved to dismiss the FAC.[4] Lyft contends that every claim of each of the five patents in suit [is] directed to patent-ineligible subject matter and, therefore, is unpatentable under 35 U.S.C. § 101 and the Supreme Court's decision in *Alice*.[5] [Lyft also contends that the FAC fails to plead facts sufficient to state a claim for infringement of the '199 Patent.]

[Discussion]

I'm not going to read into the record the law that applies to motions to dismiss for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6) or the law that applies to the Court's assessment of validity under § 101. I previously set forth the applicable legal standards in another report and recommendation, *CoolTVNetwork.com v. Facebook*.[6] I incorporate those legal standards by reference and hereby adopt them into my report.

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[2] (D.I. 1, 6.)

[3] The asserted patents are U.S. Patent. Nos. 9,892,637 ("'637 Patent"), 10,169,987 ("'987 Patent"), 10,395,525 ("'525 Patent"), 10,559,199 ("'199 Patent"), and 10,748,417 ("'417 Patent").

[4] (D.I. 14.)

[5] *See Alice Corp. v. CLS Bank Int'l*, 573 U.S. 208 (2014).

[6] *See CoolTVNetwork.com v. Facebook, Inc.*, C.A. No. 19-292-LPS-JLH, 2019 WL 4415283 at *3, *10-11 (D. Del. Sept. 16, 2019).

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