IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

PEBBLE TIDE LLC, Plaintiff, v. ARLO TECHNOLOGIES, INC, Defendant.	C.A. No. 19-769-LPS
PEBBLE TIDE LLC, Plaintiff, v. UNIDEN AMERICA CORPORATION, Defendant.	C.A. No. 19-1177-LPS
PEBBLE TIDE LLC, Plaintiff, v. PETCUBE, INC, Defendant.	C.A. No. 19-1397-LPS
MIMZI, LLC., Plaintiff, v. FOURSQUARE LABS, INC. Defendant.	C.A. No. 18-1767-LPS

MIMZI, LLC, Plaintiff, v. TRIPADVISOR INC. ET AL, Defendants.	C.A. No. 18-1768-LPS
MIMZI, LLC, Plaintiff, v. ACER INC., Defendant.	C.A. No. 19-272-LPS
MIMZI, LLC, Plaintiff, v. ASUSTEK COMPUTER INC., Defendants.	C.A. No. 19-273-LPS
MIMZI, LLC, Plaintiff, v. HTC CORP., Defendant.	C.A. No. 19-274-LPS

MEMORANDUM ORDER

At Wilmington this **31st** day of **January, 2020**:

WHEREAS, defendants in the above-listed cases filed Rule 12 motions to dispose of patent infringement claims on the bases that certain patent claims are invalid under 35 U.S.C. § 101, because they are allegedly directed to unpatentable subject matter;

WHEREAS, the above-listed cases brought by Pebble Tide LLC ("Pebble Tide" or "Pebble") are unrelated to the above-listed cases brought by Mimzi, LLC ("Mimzi");

WHEREAS, the Court heard oral argument in all the above-listed cases on January 10, 2020 and has considered the parties' respective briefs and related filings;[1]

WHEREAS, the Court continues to find that its experimental procedure of addressing multiple Section 101 motions from separate cases in one hearing is an efficient use of judicial resources and a beneficial tool for resolving the merits of Section 101 motions;

NOW, THEREFORE, IT IS HEREBY ORDERED that, with respect to the above-listed Pebble Tide cases, Defendants' Rule 12 motions (C.A. No. 19-769 D.I. 16; C.A. No. 19-1177 D.I. 12; C.A. No. 19-1397 D.I. 8, 18) are **GRANTED**, and

IT IS FURTHER ORDERED that, with respect to the above-listed Mimzi cases, Defendants' Rule 12 motions (C.A. No. 18-1767 D.I. 24; C.A. No. 18-1768 D.I. 20; C.A. No. 19-272 D.I. 12; C.A. No. 19-273 D.I. 11; C.A. No. 19-274 D.I. 11) are **DENIED**.

The Court's Order is consistent with the following bench ruling announced at that the conclusion of the January 10 hearing (*see* Tr. at 96-118):

> The first [] cases that were argued all involve Pebble, three related cases . . . [t]hey all seek to dismiss the amended complaint on the same grounds, the lack of patent eligibility under Section 101. Two patents are asserted . . . [t]he first one is patent No.

[1] Chief Judge Leonard P. Stark and Magistrate Judge Jennifer L. Hall jointly presided throughout the argument. The Court adopts the full bench ruling and includes here only a portion of it.

10,261,739, and the second is 10,303,411. Everybody now agrees at this point that the '739 patent, claim 1, is representative, and therefore my ruling applies to all asserted claims of both patents.

. . . [M]y decision is to grant the defendants' motion, and let me try to explain why.

First, as to Step One of *Alice*[2] . . . I find that the representative claim is not directed to a specific improvement in computer functionality or to a specific implementation of a solution to a technological problem. Rather, it is directed to the abstract idea of wirelessly outputting data from one device to another. This is an abstract idea. We know that from cases that have already been decided by the Federal Circuit. For instance, in *Cellspin*,[3] the Federal Circuit said, we have consistently held that similar claims reciting the collection, transfer and publishing of data are directed to an abstract idea.

In *ChargePoint*,[4] the Federal Circuit found [to be] abstract claims directed to transmitting data from one device to another. This conclusion at Step One is supported by the fact that the representative claim lacks limiting technical details. Neither of the claims, nor for that matter the specification, explain[s] how the claimed invention's components perform their recited functions. Rather, they describe those components in purely functional terms.

. . . I find that the defendants have done what they need to [do] at Step Two as well. At Step Two, the plaintiff has at times said that the inventive concept is the pervasive output process which may be a result of the interplay of the job object process and the device object process. . . . [Plaintiff has] also referred to the information apparatus as possibly being an inventive concept. I find it is clear even on Rule 12 . . . that none of these purported inventive concepts alone or in combination are an inventive concept that [saves] the patentability at Step Two.

Let me give some examples of what one finds in the specification of the '739 patent that supports my conclusion . . . For example, including with respect to the component of

---

[2] *Alice Corp. Pty. Ltd v. CLS Bank Int'l*, 573 U.S. 208 (2014); *see also Mayo Collaborative Serv. v. Prometheus Labs., Inc.*, 566 U.S. 66 (2012).

[3] *Cellspin Soft, Inc. v. Fitbit, Inc.*, 927 F.3d 1306 (Fed. Cir. 2019).

[4] *ChargePoint v. Sema Connect*, 920 F.3d 759 (Fed. Cir. 2019).

establishing a wireless connection between an information apparatus and a server, one sees in the specification that "information apparatuses refer generally to computing devices." That's at column 1, lines 28 to 41. The specification also says that "output devices and information apparatuses could already in the prior art be connected through a wireless connection." That is at column 2, lines 26 to 30 of the specification . . .

Now, the more challenging question on this motion in the Pebble cases was that plaintiffs are also asserting that the ordered combination of the conventional computer components and processes are somehow an inventive concept. That is, plaintiff[] argue[s] that the combination of elements in the representative claim cannot today at least be found to be conventional, well understood and routine. I disagree.

Plaintiff[] analogize[s] [its] combination to *Cellspin*'s two device, two-step structure requiring a connection before data transfer, which . . . the Federal Circuit found that that invention survived the Step Two analysis. [B]ut the Court agrees instead here with defendants, that the claims use merely functional language and that nothing in the claims or the specification details how this purported combination achieved the touted results of solving the problem of widespread incompatibility between wireless devices and corresponding output devices . . . .

Plaintiff[] . . . attempt[s] to analogize this case to *BASCOM*,[5] but that comparison is not ultimately a favorable one for the plaintiff . . . . In *BASCOM*, for instance, the Federal Circuit found that the ordered combination of plaintiff's claim limitations revealed an inventive concept after plaintiff's oral argument demonstrated that the specific method described by the asserted patents cannot be said as a matter of law to have been conventional or generic. The Federal Circuit was persuaded by plaintiff that the claims at issue in *BASCOM* recite a specific, discrete implementation of the abstract idea and that the patent describes how its particular arrangement of elements is a technical improvement over the prior art . . . .

Here, by contrast, Pebble has not shown that the asserted patent recites a specific method or a specific discrete implementation of the abstract idea that is unconventional. When I asked Pebble Tide's counsel to identify where the asserted patents

---

[5] *BASCOM Global Internet Servs., Inc. v. AT&T Mobility LLC*, 827 F.3d 1341 (Fed. Cir. 2016).

DOCKET ALARM

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts

Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research

With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips

Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS
Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS
Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS
Sync your system to PACER to automate legal marketing.