

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
WICHITA FALLS DIVISION**

SUMMIT 6 LLC,

Plaintiff,

v.

HTC CORPORATION et. al,

Defendants.

Civil Action No. 7:14-cv-00014-O

SUMMIT 6 LLC,

Plaintiff,

v.

APPLE INC.

Defendant.

Civil Action No. 7:14-cv-00106-O

ORDER

Before the Court are Defendants Apple Inc. (“Apple”), Twitter, Inc. (“Twitter”)¹, Motorola Mobility, LLC (“Motorola”), and HTC Corporation and HTC America, Inc.’s (“HTC”) (collectively, “Defendants”) Rule 12(c) Motion for Judgment on the Pleadings and Brief and Appendix in Support (ECF Nos. 263–64), filed March 16, 2015; Plaintiff’s Response (ECF No. 271), filed April 6, 2015; and Defendants’ Reply (ECF No. 275), filed April 20, 2015; and Defendants’ Motion for a Hearing (ECF No. 278), filed May 1, 2015. Having considered the motion, related briefing, pleadings, and applicable law, the Court finds that Defendants’ Motion for Judgment on the Pleadings should be

¹ The Court has since dismissed all claims against Defendant Twitter per the Joint Stipulation of Dismissal (ECF No. 283), filed May 21, 2015.

and is hereby **DENIED**. Accordingly, Defendants' Motion for a Hearing is **DENIED as moot**.

I. BACKGROUND

On February 18, 2014, Summit 6 filed this patent infringement lawsuit alleging infringement against application developer Twitter and four mobile device manufacturers and their affiliates, namely, Apple, HTC, Motorola, and LG Electronics, Inc., LG Electronics USA, Inc., and LG Electronics MobileComm USA, Inc. (collectively, "LGE").² The gravamen of Summit 6's lawsuit is that Defendants are using Summit 6's patented technology without permission to produce and sell devices and/or operate online services capable of obtaining digital content, pre-processing it, and transmitting it to another device, server, or location. *See generally* Am. Compl., ECF No. 6. Plaintiff is the current owner of three Patents-in-Suit: United States Patent Number 6,895,557 (the "'557 patent"), United States Patent Number 7,765,482 (the "'482 patent"), and United States Patent Number 8,612,515 (the "'515 patent"). On March 21, 2015, the Court issued its Claim Construction Order construing terms from the three Patents-in-Suit. *See* Order, Mar. 21, 2015, ECF No. 265.

Defendants now move for judgment on the pleadings. Defs.' Mot. J. Pleadings, ECF No. 263. The motion has been fully briefed and is ripe for adjudication.

II. LEGAL STANDARD

A. Judgment on the Pleadings

Motions for judgment on the pleadings under Rule 12(c) are "designed to dispose of cases where the material facts are not in dispute and a judgment on the merits can be rendered by looking to the substance of the pleadings and any judicially noticed facts." *Hebert Abstract Co. v. Touchstone*

² The Court has since dismissed all claims asserted between Summit 6 and LGE, pursuant to their Joint Motion to Dismiss. *See* Order, Apr. 23, 2015, ECF No. 277.

Properties, Ltd., 914 F.2d 74, 76 (5th Cir. 1990); *see also* 5C Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* § 1367 (3d ed.) (“[A] motion for a judgment on the pleadings only has utility when all material allegations of fact are admitted or not controverted in the pleadings and only questions of law remain to be decided by the district court.”).

A motion under Rule 12(c) is evaluated under the same legal standard as a motion to dismiss for failure to state a claim under Rule 12(b)(6). *Johnson v. Johnson*, 385 F.3d 503, 529 (5th Cir. 2004). In both motions, the Court would “accept the complaint’s well-pleaded facts as true and view them in the light most favorable to the plaintiff. The motion[s] should not be granted unless the plaintiff would not be entitled to relief under any set of facts that he could prove consistent with the complaint.” *Id.* (internal citations omitted).

B. Patent-Eligible Subject Matter

Under § 101 of the Patent Act, “[w]hoever 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.” *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 132 S. Ct. 1289, 1293 (2012) (quoting 35 U.S.C. § 101). Implicit in this requirement is the qualification that “[l]aws of nature, natural phenomena, and abstract ideas” are not patent-eligible subject matter. *Id.* “Whether a patent claim is drawn to patent-eligible subject matter is an issue of law.” *Dealertrack, Inc. v. Huber*, 674 F.3d 1315, 1333 (Fed. Cir. 2012) (quoting *SiRF Tech., Inc. v. Int’l Trade Comm’n*, 601 F.3d 1319, 1331 (Fed. Cir. 2010)).

Mayo and *Alice* instruct courts to follow a two-step analytical framework to determine the patent-eligibility of subject matter under § 101. *DDR Holdings, LLC v. Hotels.com, LP*, 773 F.3d 1245, 1255 (Fed. Cir. 2014) (citing *Mayo*, 132 S. Ct. at 1294; *Alice Corp. v. CLS Bank Int’l*, 134 S.

Ct. 2347, 2355 (2014)). First, a court must “determine whether the claims at issue are directed to a patent-ineligible abstract idea.” *Id.* Next, if it is directed to such an idea, the court must “consider 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 of that abstract idea.” *Id.* At this second step, the court searches “for an ‘inventive concept,’ or some element or combination of elements sufficient to ensure that the claim in practice amounts to ‘significantly more’ than a patent on an ineligible concept.” *Id.*

Merely requiring a claim to be operated on a computer does not, without more, transform a claim covering abstract ideas into one meeting the requirements of § 101. *Id.* at 1256 (citing *Dealertrack, Inc. v. Huber*, 674 F.3d 1315, 1333 (Fed. Cir. 2012)). “[R]ecitation of generic computer limitations does not make an otherwise ineligible claim patent-eligible.” *Id.* (citing *Alice*, 134 S. Ct. at 2358). However, when “the claimed solution is necessarily rooted in computer technology in order to overcome a problem specifically arising in the realm of computer networks,” such claims are more likely to be patent-eligible. *Id.* at 1257.

III. ANALYSIS

The issue before the Court is the § 101 patent eligibility of the Patents-in-Suit evaluated under the Federal Rule of Civil Procedure 12(c) standard. The Court will first address Plaintiff’s two threshold challenges and then turn to the two-step § 101 analysis.

A. Threshold Question: Questions of Fact

Judgment on the pleadings is only appropriate when there are no material questions of fact remaining. *Hebert Abstract Co.*, 914 F.2d at 76. Accordingly, the Court first turns to whether there are questions of fact precluding a judgment on the pleadings.

Plaintiff contends that there exist questions of fact that make determination of the § 101 issue at this stage inappropriate. According to Plaintiff, “Defendants’ motion raises disputed issues of material fact that include: (1) whether the claims are directed to fundamental principles, (2) whether the claims are directed to a long-prevalent human process, and (3) whether the claims are directed to challenges particular to the digital or internet context.” Pl.’s Resp. 1, ECF No. 271. However, the Court determines that all of these questions are questions of law rather than questions of fact because they are merely issues that a court must address in the course of the *Mayo/Alice* legal analysis. *See DDR Holdings*, 773 F.3d at 1255. It is possible that, in the determination of these legal questions, there may be underlying, disputed questions of fact precluding a judgement on the pleadings. *Certified Measurement, LLC v. Centerpoint Energy Hous. Elec. LLC*, No. 2:14-CV-627-RSP, 2015 U.S. Dist. LEXIS 39821, at *4 (E.D. Tex. Mar. 29, 2015) (“[U]nder certain circumstances, a determination of patent validity under section 101 may be made at the pleading stage on a motion to dismiss . . . [However,] the issue of patentable subject matter requires a legal analysis that can—and often does—‘contain underlying factual issues.’”). Nevertheless, the three questions Plaintiff posits are not themselves factual questions.

For instance, the Federal Circuit in *Content Extraction* and *Ultramercial II* addressed the questions above, or their equivalents, as matters of law. *Content Extraction & Transmission LLC v. Wells Fargo Bank, Nat. Ass’n*, 776 F.3d 1343, 1347 (Fed. Cir. 2014); *Ultramercial, Inc. v. Hulu, LLC*, 772 F.3d 709, 723 (Fed. Cir. 2014) [hereinafter *Ultramercial II*]; *see also Dealertrack, Inc. v. Huber*, 674 F.3d 1315, 1333 (Fed. Cir. 2012) (“Whether a patent claim is drawn to patent-eligible subject matter is an issue of law.”). In both cases, the Federal Circuit concluded that there were no material factual issues, holding the patents at issue to be in violation of § 101 at the motion to

dismiss stage. In *Contract Extraction*, for example, the court specifically addressed the issue of whether the claims are directed to long-prevalent human processes, holding that humans have always performed the functions of data collection, recognition, and storage. 776 F.3d at 1347. Thus, the question of whether a claim is directed to a long-prevalent human process is not itself a question of fact. Likewise, the questions of whether a claim is directed to an abstract concept or a fundamental principle and whether a claim is directed to challenges particular to the internet are also issues of law.

Plaintiff next highlights the following passages from Defendants' brief as "potential factual disputes": (1) "that [pre-processing digital content] is an abstract idea—one that can be completed without a computer at all and has been for decades"; (2) "the ability to process media content according to pre-defined parameters has existed for decades and is performable without a computer at all"; and (3) "[s]uch 'pre-processing' could be done manually for decades before the claimed invention." Pl.'s Resp. 16, ECF No. 271 (citing Defs.' Mot. J. Pleadings 2–4, ECF No. 263). Thus, Plaintiff argues that the question of whether "pre-processing" could be done by hand without a computer is a disputed, material issue of fact.

Here, Plaintiff again conflates factual questions with questions of law. Whether a concept, such as "pre-processing," is an abstract idea is a question of law; whereas how the claims themselves function, for instance how the claims perform "pre-processing," is a question of fact. Thus, Plaintiff is correct that an issue of whether the claims in the Patents-in-Suit can be performed without computer is a question of fact. To the extent there is such a question in dispute here, the Court will view this question in the light most favorable to the Plaintiff and assume that the claims cannot be completed without a computer. *See Content Extraction*, 776 F.3d 1343, 1349 (approving district

court's construction of terms in the manner most favorable to the plaintiff by "necessarily assuming that all of [the plaintiff's] claims required a machine, even though several claims do not expressly recite any hardware structures"). However, for the reasons that will be further clarified below, the Court finds that this issue is not material. A relevant question instead is whether there exist comparable "pre-processing" processes in the "brick and mortar" context, and this question is not affected by assuming that the claims themselves must be performed on a computer. *See Ultramercial II*, 772 F.3d at 723 (noting that claims that merely require the practitioner to implement an abstract idea on a computer do not meet § 101's requirements, even though they are performed entirely on a computer).

Finally, Plaintiff contends that Defendants "rely almost solely on disputed and unsupported 'facts'" in answering a series of inquiries. Pl.'s Resp. 16–17, ECF No. 271. Again, Plaintiff points only to questions of law and has not highlighted any material, disputed question of fact. Therefore, the Court concludes that Defendants' motion for judgment on the pleadings may be considered.

B. Threshold Question: Representative Claims

The Court now turns to Plaintiff's next challenge concerning Defendants' chosen representative claims. For the purposes of the § 101 analysis, not every claim need be analyzed; instead, the Court may evaluate representative claims to determine whether they are "substantially similar and linked to the same abstract idea." *Content Extraction*, 776 F.3d at 1348 (performing its own analysis to determine whether the claims were representative even though the plaintiff did not challenge the defendant's assertion that the claims were representative).

Plaintiff relies upon *Ortho Pharmaceutical Corporation v. Smith*, 959 F.2d 936, 942 (Fed. Cir. 1992), to argue that the claims are all presumed to be valid and must each be challenged in the

absence of agreed representative claims. However, the Federal Circuit specifically dismissed this argument in *Content Extraction*, 776 F.3d at 1348. Instead, the court held that representative claims may be used, provided they are “substantially similar and linked to the same abstract idea.” *Id.*

Defendants contend that claim 1 of the ’482 patent, claim 1 of the ’515 patent, and claim 28 of the ’557 patent are representative claims because each of the remaining asserted claims are directed toward similar methods or systems for pre-processing. Defs.’ Mot. J. Pleadings 6, ECF No. 263. In footnote 5, Defendants explain that each asserted claim relates to the idea of “pre-processing” digital content prior to publishing. *Id.* at 10 n.5 (citing Defs.’ App. Supp. Mot. J. Pleadings Exs. A, B, D, E, and G, App. at 1–12, 15–23, 25–26, ECF No. 264).

In its Response, Plaintiff argues that Defendants have not met their burden of establishing that the claims are representative because Defendants merely “repeat each asserted claim and pair them with threadbare, unsupported arguments as to patent-eligibility” in the appendices. Pl.’s Resp. 19, ECF No. 271.

After review of the claims and the appendices, the Court determines that Defendants have supported their argument that the claims are representative. Defs.’ App. Supp. Mot. J. Pleadings Exs. A, B, D, E, and G, App. at 1–12, 15–23, 25–26, ECF No. 264. In Exhibit A, for instance, Defendants explain how their publishing analogy aligns with asserted claim 1 of the ’482 patent. Defs.’ App. Supp. Mot. J. Pleadings Ex. A, App. at 1–2, ECF No. 264. Exhibit B then explains how several other asserted claims are similar to claim 1. Defs.’ App. Supp. Mot. J. Pleadings Ex. B, App. at 3–12, ECF No. 264. Defendants then repeat the analysis for the additional representative claims.

Moreover, Plaintiff does not argue why it believes that any of the claims are not representative. As noted by the court in *Content Extraction*, the non-movant “could have identified

claims in its opposition brief that it believed would not be fairly represented” for the purposes of the § 101 challenge. *Content Extraction*, 776 F.3d at 1348. Therefore, the Court concludes that the claims are substantially similar and linked to the same abstract idea as the claims they represent.

C. Section 101 Analysis: *Mayo/Alice* Step 1

The first step of the *Mayo/Alice* analysis asks whether the patent is directed toward an abstract concept. The parties both contend that the patents are directed toward the pre-processing of digital content. Defs.’ Mot. J. Pleadings 10, ECF No. 263; Pl.’s Resp. 3–4, ECF No. 271. Thus, the issue here is whether the pre-processing of digital content is an abstract idea.

Defendants contend that “pre-processing digital content prior to publishing” is an abstract idea because such pre-processing can be completed without a computer. Defs.’ Mot. J. Pleadings 10, ECF No. 263. They contend that before the internet, publishers would follow a similar series of steps as articulated in the patent: (1) advertisers would submit images; (2) publishers would impose requirements, such as the format or aspect ratio of a photograph; (3) the advertiser would convert the image to meet the requirements; and (4) the advertiser would send the image. *Id.* at 10–12. Thus, Defendants argue that the “pre-processing” concept does not address a “challenge particular to the internet.” *Id.* at 12 (quoting *DDR Holdings*, 773 F.3d at 1257). Essentially, Defendants argue that “[t]aking a long-prevalent human process and automating it with basic computer technology, utilized in a normal, expected manner, is not eligible for patenting.” *Id.* at 12 (citing *CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1373 (Fed. Cir. 2011)); see also *In re TLI Communs. LLC Patent Litig.*, No. 1:14md2534, 2015 U.S. Dist. LEXIS 18997, at *43 (E.D. Va. Feb. 6, 2015) (“[T]he concept underlying the [patent] is the longstanding abstract idea of taking, organizing, classifying, and storing photographs. . . . And this conclusion should not be obscured by the

convoluted ‘patent-esc,’ language used in the [patent].”).

Plaintiff responds that the Patents-in-Suit do in fact solve a problem particular to networks and the internet, and thus the patents are not directed to an abstract idea. Pl.’s Resp. 2, ECF No. 271. Plaintiff explains that the front-loaded pre-processing of digital content in accordance with pre-processing parameters must be done on a computer and is not feasibly performed by hand. *Id.* at 3–4. Therefore, according to Plaintiff, Defendants improperly characterize the essential concepts of the patents in their analogies to a pre-internet context. *See id.* at 4. Essentially, Plaintiff argues that, because patent claims are computer-implemented, the underlying concept is not abstract. *See id.*

“The Supreme Court has not ‘delimited the precise contours of the abstract idea category.” *Smartflash LLC v. Apple Inc.*, No. 6:13CV447-JRG-KNM, 2015 WL 661174, at *7 (E.D. Tex. Feb. 13, 2015) (quoting *Content Extraction*, 2014 WL 7272219, at *3; *Bilski v. Kappos*, 561 U.S. 593, 606, 608 (2010)). However, Supreme Court precedents “warn us against upholding patents that claim processes that too broadly preempt the use of a natural law,” or another fundamental concept. *Mayo*, 132 S. Ct. at 1294. Examples of abstract concepts include mathematical algorithms and fundamental economic or business practices. *DDR Holdings*, 773 F.3d at 1256.

When evaluating a patent’s underlying concept, courts are instructed not to characterize the concepts at too high a degree of generality. *Smartflash LLC*, 2015 WL 661174, at *6 (“The Court has long-recognized that any claim can be stripped down, simplified, generalized, or paraphrased to remove all of its concrete limitations, until at its core, something that could be characterized as an abstract idea is revealed. A court cannot go hunting for abstractions by ignoring the concrete, palpable, tangible limitations of the invention the patentee actually claims.”) (quoting *Ultramercial Inc. v. Hulu LLC*, 772 F.3d 1335, 1344 (Fed. Cir. 2013) [hereinafter *Ultramercial I*], *cert. granted*,

judgment vacated sub nom. WildTangent, Inc. v. Ultramercial, LLC, 134 S. Ct. 2870 (2014)); *Ultramercial II*, 772 F.3d at 715 (“[A]t some level, ‘all inventions . . . embody, use, reflect, rest upon, or apply laws of nature, natural phenomena, or abstract ideas.’”) (quoting *Alice*, 134 S. Ct. at 2354; *Mayo*, 132 S. Ct. at 1293).

The Court agrees with Plaintiff that the claims, viewed in the light most favorable to Plaintiff, are directed toward solving a problem particular to the internet, and Defendants’ brick-and-mortar analogy does not appropriately capture the covered concept. *See Cal. Inst. of Tech. v. Hughes Communs., Inc.*, No. 2:13-cv-07245-MRP-JEM, 2014 U.S. Dist. LEXIS 156763, at *49–51 (C.D. Cal. Nov. 3, 2014) (determining that a party’s pen-and-paper analogy “oversimplifies § 101” by ignoring patent’s solution “for a computing problem—the corruption of data during transmission”). In the instant case, the invention purports to address various computer-based problems, such as digital resizing or compression of an image and changing an image’s file format before transmission to another location. Pl.’s Resp. 8, ECF No. 271 (citing ’557 patent, 5:2–22). The invention is designed to facilitate these processes with less user sophistication. *Id.* In particular, the claims purport to direct how and when digital information about the specifications of media objects will be applied to those media objects. *See* ’557 patent, 1:61–63 (distinguishing invention from prior art based upon “built in ‘intelligence’ to streamline the process of handling and transporting rich media objects from the *front end*”) (emphasis added). The claims are primarily directed toward solving the problem of when to apply required parameters to a media object — before transmission to another location. *See id.* Thus, viewing the claims appropriately at this stage, the Court concludes that the claims are directed toward solving various network-based problems, and such processes have no true brick-and-mortar analogue.

This situation is also distinct from *CyberSource*, a case Defendants rely upon that held that “a method that can be performed by human thought alone is merely an abstract idea and is not patent-eligible under § 101 . . . because computational methods which can be performed entirely in the human mind are the types of methods that embody the ‘basic tools of scientific and technological work’ that are free to all men and reserved exclusively to none.” *CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1373 (Fed. Cir. 2011) (quoting *Gottschalk v. Benson*, 409 U.S. 63, 67 (1972)). Viewing the facts appropriately at this stage, the pre-processing concept, and certainly the claims directing the pre-processing of digital content, cannot be performed by human thought alone. Thus, *CyberSource* does not compel a decision.

However, the Court is not convinced that the analysis ends there. Merely because a concept is directed toward an internet-based problem does not necessarily mean that it is not an abstract concept. *DDR Holdings*, 773 F.3d at 1258 (“We caution, however, that not all claims purporting to address Internet-centric challenges are eligible for patent.”). Courts must consider whether “the claims recite an invention that is not merely the routine or conventional use of the internet.” *Id.* at 1258–59; *see also* Defs.’ Mot. J. Pleadings 14, ECF No. 263. In *DDR Holdings*, the court noted that the claims at issue in that case specified “how interactions with the Internet are manipulated to yield a desired result—a result that overrides the routine and conventional sequence of events ordinarily triggered by the click of a hyperlink.” 773 F.3d at 1258. Thus, as in *DDR Holdings*, the Court must next turn to this question in the context of *Mayo/Alice* step two. *Id.* at 1257 (moving to *Mayo/Alice* step two when the claims addressed “a challenge particular to the Internet” and “identifying the precise nature of the abstract idea is not as straightforward”).

D. Section 101 Analysis: *Mayo/Alice* Step 2

The Court now turns to whether the claims recite an invention that is inventive and not merely the routine or conventional use of the internet. *See id.* at 1258–59. “For the role of a computer in a computer-implemented invention to be deemed meaningful in the context of this analysis, it must involve more than performance of ‘well-understood, routine, [and] conventional activities previously known to the industry.’” *Content Extraction*, 776 F.3d at 1347–48. “[I]f a patent’s recitation of a computer amounts to a mere instruction to ‘implemen[t]’ an abstract idea ‘on . . . a computer,’ that addition cannot impart patent eligibility.” *Alice*, 134 S. Ct. at 2358 (internal citation omitted). “Wholly generic computer implementation is not generally the sort of ‘additional featur[e]’ that provides any ‘practical assurance that the process is more than a drafting effort designed to monopolize the [abstract idea] itself.’” *Alice*, 134 S. Ct. at 2358 (quoting *Mayo*, 132 S. Ct. at 1297).

According to Defendants, “[t]he ability of a computer to ‘receive,’ ‘process,’ and ‘transmit’ data over a network are conventional functions routinely performed by generic computers.” Defs.’ Mot. J. Pleadings 14, ECF No. 263. Defendants argue that merely receiving and sending information is not sufficient inventiveness, and the patents’ “pre-processing” encompasses “virtually any type of processing using received parameters.” *Id.* at 16 (citing ’557 patent, claim 29). Thus, they argue that the claims are directed to a routine or conventional use of the internet, which is not patent-eligible subject matter.

The Federal Circuit has held that, if there are no other limitations, merely receiving and sending information is not inventive. *BuySAFE, Inc. v. Google, Inc.*, 765 F.3d 1350, 1355 (Fed. Cir. 2014) (“That a computer receives and sends the information over a network—with no further specification—is not even arguably inventive.”); *see also Content Extraction*, 776 F.3d at 1347 (“The concept of data collection, recognition, and storage is undisputedly well-known.”); *Cyberfone*

Sys., LLC v. CNN Interactive Grp., Inc., 558 F. App'x 988, 992 (Fed. Cir. 2014) (“[T]he idea of collecting information in classified form, then separating and transmitting that information according to its classification, is an abstract idea that is not patent-eligible.”).

Plaintiff responds that the claims do contain an inventive concept, namely a “built in intelligence.” Pl.’s Resp. 8, ECF No. 271 (citing ’557 patent, 5:2–22). This feature, according to Plaintiff, enables the appropriate changes to be made to a media object automatically, without specific user input. *See id.* According to Plaintiff, the patents’ limitations “eliminate the need for the user to understand the digital requirements and parameters of the third-party, tie the claims to a ‘specific way’ of preprocessing, and narrow the claims to a specific, digital context.” *Id.* at 10. Plaintiff points to eight examples of “improvements” or “limitations” embodied in the claims. *Id.* at 10. For instance, “pre-processing the media object by the media object identifier for the requirements of the third-party web site, the pre-processing being done without user selection of the pre-processing” of claim 28 of the ’557 patent and “wherein said receiving an identification comprises receiving via a web browser user interface” of claim 5 of the ’515 patent are listed as limitations. *Id.*

The Court considers the facts here to be comparable to *DDR Holdings*. 773 F.3d at 1258–59. In *DDR Holdings*, the Federal Circuit considered an invention that was designed to mimic the “look and feel” of the host website in displaying advertisements. *Id.* Essentially, it used an outside application called an “outsource provider” to make a hybrid website in which advertisement “B” looked like it belonged on host website “A.” *Id.* Similarly, in general, the claims here use an outside application or program, called a “media object identifier,” to make changes to a user’s picture “B” on the front end in order to fit the imaging requirements of website “A.” *See, e.g.*, ’482 patent,

2:52–3:19. The *DDR Holdings* court held that the claims were patent-eligible because they “specify how interactions with the Internet are manipulated to yield a desired result—a result that overrides the routine and conventional sequence of events ordinarily triggered by the click of a hyperlink.” 773 F.3d at 1258.

Therefore, viewed in the light most favorable to Plaintiff at this stage of the litigation, the claims at issue also specify more than merely a general instruction to transfer information using the internet. Unlike several cases cited by Defendants, the claims here do not merely state that information must be “processed” without more instructions. *Cf. BuySAFE*, 765 F.3d at 1355; *see also In re TLI Commns.*, 2015 U.S. Dist. LEXIS 18997, at *36 (citing *Ultramercial II*, 772 F.3d at 715) (noting that the patent in *Ultramercial II* simply relied on a computer operating in a “normal, expected manner”). Thus, the claims as pleaded amount to more than merely a direction to implement an abstract idea on a computer. *See Alice*, 134 S. Ct. at 2358.

In summary, the Court declines to find, based upon the limited record before it at this stage and the limited briefing on the issue, that the invention was common to the internet at the relevant time or that it involved “well-understood, routine, [and] conventional activities previously known to the industry.” *See Content Extraction*, 776 F.3d at 1347–48. Accordingly, the Court determines that Defendants have not established patent-ineligibility.

IV. CONCLUSION

For the foregoing reasons, it is **ORDERED** that Defendants’ Rule 12(c) Motion for Judgment on the Pleadings (ECF No. 263) is **DENIED** and Defendants’ Motion for a Hearing (ECF No. 278) is **DENIED as moot**.

SO ORDERED on this **28th day of May, 2015**.