IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

TOPIA TECHNOLOGY, INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 1:21-cv-01821-MN-CJB
	)	
EGNYTE, INC.,	)	
	)	JURY TRIAL DEMANDED
Defendant.	)	

DEFENDANT'S MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR JUDGMENT ON THE PLEADINGS THAT PLAINTIFF'S ASSERTED PATENTS ARE INVALID UNDER 35 U.S.C. § 101

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I. INTRODUCTION

Defendant Egnyte, Inc. respectfully moves pursuant to Rule 12(c) of the Federal Rules of Civil Procedure for judgment that the six related patents asserted by Plaintiff Topia Technology, Inc. are invalid as being directed to unpatentable subject matter in violation of 35 U.S.C. § 101.

The asserted patents have sweepingly broad scope that Topia asserts covers essentially all manners of synchronizing electronic files across multiple systems, targeting not merely Egnyte but an entire industry. Patent claims with such an asserted scope threaten to improperly tie up basic principles of networked computer systems and cloud storage. Topia's asserted patents are precisely the type that are forbidden under § 101 and the Supreme Court's mandate in *Alice Corp. Pty., Ltd. v. CLS Bank International*, 573 U.S. 208 (2014). At *Alice* Step One, the breadth of the patents confirms they are directed to an abstract idea, not specific technological advances. At *Alice* Step Two, the claims fail to add any inventive concept apart from the abstract idea. The claims recite only routine, conventional, and generic computer processing steps (electronic file transfer and synchronization) to carry out the abstract ideas of synchronizing multiple versions of electronic files. Accordingly, the Court should grant judgment on the pleadings that the asserted patents are invalid for claiming ineligible subject matter under § 101.

II. NATURE AND STAGE OF PROCEEDINGS

Topia filed this action on December 27, 2021, accusing Egnyte of infringing six patents: U.S. Patent Nos. 9,143,561; 10,067,942; 10,289,607; 10,642,787; 10,754,823; and 11,003,622. (ECF No. 1). Egnyte answered the complaint on March 7, 2022, asserting defenses and counterclaims for non-infringement and invalidity of the six asserted patents. (ECF No. 13). Topia answered the counterclaims on April 8, 2022. (ECF No. 22). The Court entered a scheduling order on May 12, 2022, setting a trial date of July 22, 2024. (ECF No. 24). This motion is being made "[a]fter the pleadings are closed—but early enough not to delay trial." Fed. R. Civ. P. 12(c).

III. SUMMARY OF THE ARGUMENT

Storing and synchronizing versions of documents and other files is a longstanding practice that existed well before the advent of computers and the Internet. Whether revising a legal brief, writing a book manuscript, or maintaining accounting records, people have had a need to reconcile records across multiple versions. Automatic synchronization and reconciliation now have become commonplace among networked computer systems and various types of data and files. This enables rapid distribution of updated master files to all users, rather than awaiting manual replacement.

Topia's asserted patents implement this routine and longstanding practice with nothing more than conventional computer processing and networking technology. Following the Supreme Court's *Alice* decision and its progeny, implementing such an abstract concept on a computer network is ineligible for patent protection under 35 U.S.C. § 101. *See, e.g.*, *Alice*, 573 U.S. 208 (2014) (finding computerized methods and systems for using escrow service to mitigate settlement risk ineligible for patent protection).[1]

Accordingly, judgment on the pleadings should be entered pursuant to Fed. R. Civ. P. 12(c) because all asserted claims are invalid under 35 U.S.C. § 101.

[1] *See also, e.g.*, *Intellectual Ventures I LLC v. Erie Indemnity Co.*, 850 F.3d 1315, 1328-29 (Fed. Cir. 2017) (finding computerized systems for creating an index and using it to search ineligible for patent protection); *Ameranth, Inc. v. Domino's Pizza, LLC*, 792 Fed. Appx. 780 (Fed. Cir. 2019) (affirming ineligibility of claims directed to the concept of synchronous communications and automatic formatting for different handheld devices); *Apple, Inc. v. Ameranth, Inc.*, 842 F.3d 1229 (Fed. Cir. 2016) (holding ineligible claims directed to electronic restaurant menu ordering methodology); *Orcinus Holdings, LLC V. Synchronoss Techs., Inc.*, 379 F. Supp. 3d 857 (N.D. Cal. 2019) (holding ineligible claims directed to uploading and downloading data from customer premises equipment to a server by way of a mobile network), *aff'd* No. 2019-1765 (Fed. Cir. Jun. 19, 2020); *WhitServe LLC v. Dropbox, Inc.*, 854 Fed. Appx. 367 (Fed. Cir. 2021) (affirming ineligibility of claims directed to computer function of maintaining data records, including storing records at different sites for added protection), *cert. denied*, 142 S. Ct. 778 (2022).

IV. STATEMENT OF FACTS

A. The Asserted Patents

Topia asserts six patents against Egnyte's products and services, which Topia characterizes as "online document storage and synchronization products and services . . . through Egnyte's online platforms and mobile applications to customers." (Complaint at ¶ 6). Topia has identified six broad categories of Egnyte's products and services—which are nearly all of Egnyte's offerings—as allegedly infringing all six asserted patents.[2] All six patents share a common specification.

The asserted patents identify the purported problem to be solved as file management across multiple devices to eliminate redundant file copies, reduce errors, and simplify filing systems. *See, e.g.*, '561 patent at 1:22-58. The asserted patents attempt to address prior file share and synchronization methods by automating the transfer of new versions of electronic files to multiple user systems. *See, e.g.*, *id.* at 3:42-61. Notably, "[e]mbodiments of the invention are operational with numerous other *general purpose or special purpose computing system* environments or configurations." *Id.* at 4:57-59 (emphasis added). Additionally, "[e]mbodiments of the invention may be described in the *general context of computer-executable instructions*, such as program modules, being executed by a computer and/or by computer-readable media on which such instructions or modules can be stored." *Id.* at 5:1-5 (emphasis added); *see also id.* at 5:14-16 ("an

[2] Topia served its initial identification of asserted patents and accused products on June 1, 2022. (*See* ECF No. 33). Topia has identified the following accused products and services: (1) Egnyte Enterprise File System and every subscription model associated with Egnyte Enterprise File System; (2) Egnyte Platform and every subscription model associated with Egnyte Platform; (3) Egnyte Connect and every subscription model associated with Egnyte Connect; (4) Egnyte Desktop App and every subscription model associated with Egnyte Desktop App; (5) Egnyte Mobile App and every subscription model associated with Egnyte Mobile App; and (6) Egnyte Large File Collaboration and every subscription model associated with Egnyte Large File Collaboration.

exemplary system for implementing the invention includes a *general purpose* computing device") (emphasis added).

U.S. Patent No. 9,143,561 is titled "Architecture for Management of Digital Files across Distributed Network" and issued on September 22, 2015, from application no. 12/267,852 filed November 10, 2008. Topia asserts "[t]he '561 patent is generally directed to systems and methods for sharing electronic files between multiple devices, wherein when a user modifies an electronic file on a device, a copy of the modified electronic file is *automatically transferred to at least one other device*." (Complaint at ¶ 12 (emphasis added)). The '561 patent has 2 independent claims. Claim 1 is representative of the claims in the '561 patent and recites:[3]

> 1. A system, comprising:
>
> a first electronic device configured to selectively execute a first application, the first electronic device being in communication with a second electronic device and a third electronic device, each associated with a user wherein the first electronic device is configured to:
>
> receive from a second application executable on the second electronic device a copy of a first electronic file automatically transferred from the second application when the user modifies a content of the first electronic file; and
>
> wherein the first electronic device is further configured to receive from a third application executable on the third electronic device a copy of a second electronic file automatically transferred from the third application when the user modifies a content of the second electronic file; and
>
> wherein the first application is further configured to automatically transfer the modified first electronic file copy to the third electronic device to replace an older version of the first electronic file stored on the third electronic device with the modified first electronic file copy having the content modified by the user; and

[3] The second independent claim is claim 8, which essentially claims a method performed utilizing the system of claim 1. "When the only difference between claims is the form in which they are drafted, it is appropriate to treat them [] 'as equivalent for purposes of patent eligibility under § 101.'" *SmileDirectClub, LLC v. Candid Care Co.*, 505 F. Supp. 3d 340, 347 (granting motion to dismiss as to ineligibility where claims were directed to economic practices and methods of organizing business operations) (Connolly, J.) (quoting *Bancorp Servs., LLC v. Sun Life Assur. Co. of Canada (US)*, 687 F.3d 1266, 1277 (Fed. Cir. 2012)). Similarly, because the dependent claims merely add steps or conditions to the workflow in the independent claims without adding any technological improvements, they do not affect the patentability analysis. *See id.*

> automatically transfer the modified second electronic file copy to the second electronic device to replace an older version of the second electronic file stored on the second electronic device with the modified second electronic file copy having the content modified by the user;
>
> wherein the second application automatically transfers the copy of the modified first electronic file to the first electronic device upon determining that a save operation has been performed on the modified first electronic file.

U.S. Patent No. 10,067,942 is titled "Architecture for Management of Digital Files across Distributed Network" and issued on September 4, 2018, from application no. 14/860,289 filed September 21, 2015.[4] Topia asserts "[t]he '942 Patent is generally directed to systems and methods for sharing electronic files between multiple devices, wherein when a user modifies an electronic file on a device, a copy of the modified electronic file is *automatically transferred to other devices based on a communication state of the other devices*." (Complaint at ¶ 33 (emphasis added)). The '942 patent has 2 independent claims. Claim 1 is representative:

> 1. A system comprising:
>
> a first electronic device, associated with a user, configured to:
>
> receive, via a first application at the first electronic device, a copy of a modified first electronic file from a second application at a second electronic device associated with the user, wherein the modified first electronic file copy is automatically received from the second application responsive to the user modifying a content of the first electronic file;
>
> determine whether the first electronic device is in communication with a third electronic device;
>
> automatically send, via the first application, the modified first electronic file copy to a third application at the third electronic device responsive to the determination that the first electronic device is in communication with the third electronic device and responsive to receiving the modified first electronic file copy from the second electronic device;
>
> receive, via the first application, a copy of a modified second electronic file from the third application at the third electronic device associated with the user, wherein the modified second electronic file copy

[4] The '942 patent is currently the subject of an *inter partes* review proceeding instituted before the Patent Trial and Appeal Board, Proceeding No. IPR2022-00782, captioned *Unified Patents, LLC v. Topia Technology, Inc.* (filed Apr. 15, 2022).

> is automatically received from the third application responsive to the user modifying a content of the second electronic file;
>
> determine whether the first electronic device is in communication with the second electronic device; and
>
> automatically send, via the first application, the modified second electronic file copy to the second application at the second electronic device responsive to the determination that the first electronic device is in communication with the second electronic device and responsive to receiving the modified second electronic file copy from the third electronic device,
>
> wherein, responsive to sending the modified first electronic file copy to the third electronic device, an older version of the first electronic file stored on the third electronic device is automatically caused to be replaced with the modified first electronic file copy such that the modified first electronic file copy is stored on the third electronic device in lieu of the older version of the first electronic file, and
>
> wherein, responsive to sending the modified second electronic file copy to the second electronic device, an older version of the second electronic file stored on the second electronic device is automatically caused to be replaced with the modified second electronic file copy such that the modified second electronic file copy is stored on the second electronic device in lieu of the older version of the second electronic file.

U.S. Patent No. 10,289,607 is titled "Architecture for Management of Digital Files across Distributed Network" and issued on May 14, 2019, from application no. 16/017,348 filed June 25, 2018. Topia asserts "[t]he '607 Patent is generally directed to systems and methods for sharing electronic files between multiple devices, wherein when a user modifies an electronic file on a device, a copy of the modified electronic file is *automatically transferred to other devices, and wherein metadata associated with the modified electronic file is assigned a greater priority than the copy of the modified electronic file, and the metadata is automatically transferred to the other devices prior to the copy of the modified electronic file*." (Complaint at ¶ 44 (emphasis added)). The '607 patent has 4 independent claims. Claim 1 is representative:

> 1. A system comprising:
>
> a server system comprising one or more processors programmed with computer program instructions that, when executed, cause the server system to:

> receive, over a network, a copy of a first file from a first client device associated with a user, wherein the copy of the first file is automatically received from the first client device responsive to the user modifying a content of the first file stored on the first client device, the copy of the first file being a version of the first file that is generated from the user modifying the content of the first file;
>
> receive, from the first client device, first metadata associated with the version of the first file that is generated from the user modifying the content of the first file, the first metadata being assigned a first priority greater than a second priority assigned to the copy of the first file;
>
> determine that the server system is not in communication with a second client device associated with the user;
>
> store the copy of the first file on the server system;
>
> automatically transfer the first metadata to the second client device based on the first priority being greater than the second priority such that the first metadata is transferred to the second client device prior to the copy of the first file being transferred to the second client device; and
>
> automatically transfer, over a network, the copy of the first file to the second client device associated with the user to replace an older version of the first file stored on the second client device, responsive to (i) resuming communication with the second client device and (ii) receiving the copy of the first file from the first client device.

U.S. Patent No. 11,003,622 is titled "Architecture for Management of Digital Files across Distributed Network" and issued on May 11, 2021, from application no. 16/361,641 filed March 22, 2019. Topia asserts "[t]he '622 Patent is generally directed to systems and methods for sharing electronic files between multiple devices, wherein when a user modifies an electronic file on a device, *metadata associated with the modified electronic file is automatically transferred to other devices with higher priority and a copy of the modified file is automatically transferred to the other devices to replace an older version of the electronic file stored on the other devices*." (Complaint at ¶ 77 (emphasis added)). The '622 patent has 3 independent claims. Claim 1 is representative:

> 1. A system comprising:
>
> a server system comprising one or more processors programmed with computer program instructions that, when executed, cause the server system to:
>
> receive, over a network, a copy of a first file from a first client device associated with a user, wherein the copy of the first file is automatically

> received from the first client device responsive to the user modifying a content of the first file stored on the first client device, the copy of the first file being a version of the first file that is generated from the user modifying the content of the first file;
>
> store the copy of the first file on the server system;
>
> receive, from the first client device, first metadata associated with the version of the first file that is generated from the user modifying the content of the first file, the first metadata being assigned a first priority greater than a second priority assigned to the copy of the first file;
>
> automatically transfer, based on the first priority being greater than the second priority, the first metadata to the second client device such that the first metadata is transferred to the second client device prior to the copy of the first file being transferred to the second client device; and
>
> automatically transfer, over a network, the copy of the first file to the second client device associated with the user to replace an older version of the first file stored on the second client device, responsive to receiving the copy of the first file from the first client device.

U.S. Patent No. 10,642,787 is titled "Pre-file-transfer Update Based on Prioritized Metadata" and issued on May 5, 2020, from application no. 16/750,399 filed January 23, 2020. Topia asserts "[t]he '787 Patent is generally directed to systems and methods for sharing electronic files between multiple devices, wherein when a user modifies an electronic file on a device, *metadata associated with the modified electronic file is automatically transferred to other devices with higher priority before a copy of the modified electronic file is transferred to the other devices, which causes a user interface of the other devices to indicate the updated version of the modified electronic file*." (Complaint at ¶ 55 (emphasis added)). The '787 patent has 3 independent claims. Claim 1 is representative:

> 1. A system comprising:
>
> a server system comprising one or more processors programmed with computer program instructions that, when executed, cause the server system to:
>
> receive, over a network, a copy of a first file from a first client device associated with a user, wherein the copy of the first file is automatically received from the first client device responsive to the user modifying a content of the first file stored on the first client device, the

> copy of the first file being an updated version of the first file that is generated from the user modifying the content of the first file;
>
> receive, over a network, from the first client device, first metadata associated with the updated version of the first file that is generated from the user modifying the content of the first file, the first metadata being assigned a first priority greater than a second priority assigned to the copy of the first file; and
>
> automatically transfer, based on the first priority being greater than the second priority, the first metadata over a network to a second client device associated with the user such that the first metadata is transferred to the second client device before the copy of the first file is transferred to the second client device,
>
> wherein, before the copy of the first file is transferred to the second client device:
>
> (i) the transfer of the first metadata to the second client device causes a file representation of the first file presented on a user interface of the second client device to be updated based on the first metadata, and
>
> (ii) instead of the updated file representation of the first file representing a version of the first file currently stored on the second client device, the updated file representation represents the updated version of the first file that is currently stored on the first client device and not currently stored on the second client device, and
>
> wherein at least one of the server system or the first client device comprises a priority assignment configuration to assign greater priority to metadata associated with files than priority assigned to the files such that at least one of the server system or the first client device assigns the first priority to the first metadata and the second priority to the copy of the first file based on the priority assignment configuration.

U.S. Patent No. 10,754,823 is titled "Pre-file-transfer Update Based on Prioritized Metadata" and issued on August 25, 2020, from application no. 16/750,435 filed January 23, 2020. Topia asserts "[t]he '823 Patent is generally directed to systems and methods for sharing electronic files between multiple devices, wherein when a user modifies an electronic file on a device, *metadata associated with the modified electronic file is automatically transferred to other devices with higher priority, which causes a graphical availability indication of the updated version of the modified electronic file to be presented on the other devices, and subsequently the copy of the*

modified electronic file is transferred to the other devices." (Complaint at ¶ 67 (emphasis added)). The '823 patent has 3 independent claims. Claim 1 is representative:

> 1. A system comprising:
>
> a server system comprising one or more processors programmed with computer program instructions that, when executed, cause the server system to:
>
> receive, over a network, a copy of a first file from a first client device associated with a user, wherein the copy of the first file is automatically received from the first client device responsive to the user modifying a content of the first file stored on the first client device, the copy of the first file being an updated version of the first file that is generated from the user modifying the content of the first file;
>
> receive, over a network, from the first client device, first metadata associated with the updated version of the first file that is generated from the user modifying the content of the first file, the first metadata being assigned a first priority greater than a second priority assigned to the copy of the first file;
>
> automatically transfer, based on the first priority being greater than the second priority, the first metadata over a network to a second client device associated with the user such that the first metadata is transferred to the second client device before the copy of the first file is transferred to the second client device,
>
> wherein, before the copy of the first file is transferred to the second client device:
>
> (i) the transfer of the first metadata to the second client device causes a graphical availability indication of the updated version of the first file to be presented at the second client device based on the first metadata, and
>
> (ii) the graphical availability indication is presented proximate a file icon representing the first file on a user interface of the second client device, and
>
> wherein the graphical availability indication indicates that the updated version of the first file generated from the user modifying the content of the first file is available to be downloaded from the server system to the second client device; and
>
> subsequent to the transfer of the first metadata to the second client device, transfer the copy of the first file to the second client device,
>
> wherein at least one of the server system or the first client device comprises a priority assignment configuration to assign greater priority to metadata associated with files than priority assigned to the files such that at least one of the server system or the first client device assigns the first

priority to the first metadata and the second priority to the copy of the first file based on the priority assignment configuration.

B. Topia's Broad Infringement Allegations Cut Across Numerous Industries, Products, and Services

Topia has filed suits accusing at least five different companies of infringing the asserted patents.[5] This includes lawsuits filed against both product developers and customers. These companies provide numerous products and services—many competitive to each other but with their own unique methods of operation—to a wide range of industries, including cloud-based content security, compliance, and collaboration tools (Egnyte), cloud-based data storage and file hosting services (DropBox and Box), identity management and governance for unstructured data access (SailPoint), integrated retail electricity and power generation (Vistra), and out-of-home media advertising (Clear Channel Outdoor). Topia's infringement allegations broadly cut across all these different industries and the defendants' disparate products and services. In other words, in Topia's view, any company developing or utilizing software tools that synchronize multiple versions of documents across a computer network are infringing Topia's patents. Thus, Topia seeks to monopolize the abstract concept of synchronizing document versions, something that has existed long before computers made it simpler.

V. ARGUMENT

A. Legal Standard

Under Section 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." 35

[5] *See Topia v Box, Inc., SailPoint Techs. Holdings, Inc. and Vistra Corp.*, No. 21-cv-01372 (W.D. Tex.); *Topia v DropBox, Inc., SailPoint Techs. Holdings, Inc. and Clear Channel Outdoor Holdings, Inc.*, No. 6:21-cv-01373 (W.D. Tex.)

U.S.C. § 101.[6] "[L]aws of nature, physical phenomena, and abstract ideas" are not patent-eligible. *Bilski v. Kappos*, 561 U.S. 593, 601 (2010). Abstract ideas are not patent-eligible because they are "the basic tools of scientific and technological work" and allowing patent monopolies over them would "impede innovation more than it would tend to promote it, thereby thwarting the primary object of the patent laws." *Alice*, 573 U.S. at 216 (citations omitted). The Supreme Court has "repeatedly emphasized this concern that patent law not inhibit further discovery by improperly tying up the future use of these building blocks of human ingenuity." *Id.* (cleaned up). Invalidity under § 101 "may be, and frequently has been, resolved on a 12(b)(6) or (c) motion." *SAP Am. Inc. v. InvestPic, LLC*, 898 F.3d 1161, 1166 (Fed. Cir. 2018); *Berkheimer v. HP Inc.*, 881 F.3d 1360, 1368 (Fed. Cir. 2018) (affirming motions to dismiss under § 101).

In *Alice*, the Supreme Court recognized that limiting a claim covering an abstract concept to a "wholly generic computer implementation" is insufficient to transform the idea into a patent-eligible invention. *Alice*, 573 U.S. at 223. The decision therefore serves as a clear mandate for the invalidation of patents that merely claim longstanding commercial practices implemented on a computer. The Federal Circuit and district courts have taken this mandate seriously and have applied these principles to invalidate many patent claims that cover fundamental practices performed with conventional computer technology or over a network. *See, e.g.*, *Versata Dev. Gr., Inc. v. SAP Am., Inc.*, 793 F.3d 1306, 1325–26 (Fed. Cir. 2015) (holding invalid a computerized method for pricing products); *Intellectual Ventures I LLC v. Capital One Bank (USA), N.A.*, 792

[6] Claims must also be novel, nonobvious, and described with particularity. *See* 35 U.S.C. §§ 102, 103, 112. Although related, these standards do not substitute for the inquiry into patent eligibility under § 101. *See Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 132 S. Ct. 1289, 1303-04 (2012).

F.3d 1363, 1367 (Fed. Cir. 2015) (holding invalid patents claiming online budgeting tool and method for customizing web pages to target a user); *see also* cases cited in footnote 1, *supra*.

B. Patent Eligibility under the *Alice* Two-Step Process

Alice articulates a two-step framework for determining when a patent claims a patent-ineligible abstract idea. Under *Alice* Step One, the court must determine whether the claims at issue are "directed to" a patent-ineligible abstract idea. To determine whether the claim is directed to an abstract idea, the court must ask "what the patent asserts to be the focus of the claimed advance over the prior art." *TecSec, Inc. v. Adobe Inc.*, 978 F.3d 1278, 1292 (Fed. Cir. 2020). "[T]he breadth of [a] claim . . . underscores that the focus of the claimed advance is [an] abstract idea," not a specific technological improvement. *Yu v. Apple Inc.*, 1 F.4th 1040, 1045 (Fed. Cir. 2021), *cert denied*, No. 21-811, 2022 WL 515904 (Feb. 22, 2022). Claims that merely recite "generalized steps to be performed on a computer using conventional computer activity" are abstract at step one. *RecogniCorp, LLC v. Nintendo Co.*, 855 F.3d 1322, 1326 (Fed. Cir. 2017). This is because unduly broad and generic claims necessarily tie up basic computer tools, contrary to Supreme Court jurisprudence. *ChargePoint, Inc. v. SemaConnect, Inc.*, 920 F.3d 759, 766 (Fed. Cir. 2019); *see also McRO, Inc. v. Bandai Namco Games Am. Inc.*, 837 F.3d 1299, 1314 (Fed. Cir. 2016) ("The preemption concern arises when the claims are not directed to a specific invention and instead improperly monopolize 'the basic tools of scientific and technological work.'" (quoting *Alice*, 573 U.S. at 216)).

If the claim is directed to an abstract idea, the court proceeds to *Alice* Step Two. In Step Two of the analysis, the court must search for an "inventive concept" in the claim outside of the underlying abstract idea—*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.'"[7] *Alice*, 573 U.S. at 217 (alteration in original) (quoting *Mayo*, 132 S. Ct. at 1305). A patentee cannot circumvent the prohibition on patenting abstract ideas by limiting the idea to "a particular technological environment," nor by adding "insignificant postsolution activity," *Bilski*, 561 U.S. at 610-11 (internal quotation marks omitted), or "well-understood, routine, conventional" features. *Mayo*, 132 S. Ct. at 1299. Importantly for this case, "the mere recitation of a generic computer cannot transform a patent-ineligible abstract idea into a patent-eligible invention." *Alice*, 573 U.S. at 223.

When claims invoke only conventional components and practices, the claims fail *Alice* Step Two at the pleading stage. *See In re Eberra*, No. 2017-2394, 2018 WL 2077938, at *2 (Fed. Cir. May 4, 2018) (finding patent failed Step Two because claim recited practices that were routine or conventional for advertising or television production); *Maxon, LLC v. Funai Corp., Inc.*, No. 2017-2139, 2018 WL 1719101, at *2 (Fed. Cir. Apr. 9, 2018) (finding patent failed Step Two because claim described generic use of computer components for standard purposes); *Automated Tracking Sols., LLC v. Coca-Cola Co.*, 723 F. App'x 989, 995 (Fed. Cir. 2018) (finding patent failed Step Two despite claim's references to "rapidly developing technology," noting claim also referred to conventional example of supposedly novel technology). The Federal Circuit has repeatedly affirmed dismissals under Section 101. *See, e.g.*, *SAP*, 898 F.3d at 1163; *Voter Verified*,

[7] In performing this analysis, courts need not analyze every asserted claim with the same degree of precision and may rely on representative claims. *See, e.g.*, *Becton, Dickinson & Co. v. Baxter Int'l, Inc.*, 127 F. Supp. 3d 687, 689 n.3 (W.D. Tex. 2015), *aff'd*, 639 F. App'x 652 (Fed. Cir. 2016) ("Where claims are 'substantially similar and linked to the same abstract idea,' the court may dispose of the other claims in the patent with less detail."); *see also Bilski*, 561 U.S. at 611-13 (determining that eleven claims in a patent application were invalid after only analyzing two claims in detail); *Accenture Global Servs., GmbH v. Guidewire Software, Inc.*, 728 F.3d 1336, 1344-45 (Fed. Cir. 2013) (invalidating systems claims that were similar to method claims already held to be invalid); *CyberFone Sys., LLC v. Cellco P'ship*, 885 F. Supp. 2d 710 (D. Del. 2012) (invalidating all twenty-four claims of a patent after analyzing only the first claim), *aff'd sub nom. Cyberfone Sys., LLC v. CNN Interactive Grp., Inc.*, 558 F. App'x 988 (Fed. Cir. 2014).

887 F.3d 1376, 1386 (Fed. Cir. 2018); *Maxon*, 2018 WL 1719101, at *1–2; *Intellectual Ventures I LLC v. Symantec Corp.*, No. 2017-1814, 2018 WL 1324863, at *1 (Fed. Cir. Mar. 15, 2018).

C. *Alice* Step One: The Asserted Claims Are Directed to An Abstract Idea

For computer-based claims like those at issue here, at Step One courts determine whether the claims focus on a "specific means or method that improves the relevant technology," which may pass muster under §101, or on a "result or effect that itself is the abstract idea and merely invokes generic processes and machinery," which cannot. *Apple*, 842 F.3d at 1241. "[T]he mere presence of *some* concrete claim elements—even elements associated with computer- or Internet-based technology—is insufficient to indicate that the claims as a whole are not directed to an abstract idea, if those elements are well overtaken in the claim by the articulation of the abstract idea itself." *TriPlay, Inc. v. WhatsApp Inc.*, 2015 U.S. Dist. LEXIS 55068, *32 (D. Del. Apr. 28, 2015) (Burke, M.J.).

Here, the asserted patents are all directed to the abstract idea of synchronizing multiple versions of a file across networked computers. The claims of the asserted patents are phrased in highly generalized, result-oriented terms—that is, abstract ideas, not technological advances. The asserted patents do not claim novel methods of reconciling different file versions, compiling modifications, processing metadata, or the like. Instead, the asserted patents merely claim the aspirational result of automatically transferring updated versions of files and, for certain claims, also transferring metadata when files are updated by users using general purpose computing system environments or configurations. *See, e.g.*, '561 patent at 4:57-59. In short, the asserted patents *use* rather than *improve* conventional technology. Use of technical jargon in the claims does not make them less abstract. *See, e.g.*, *Ericsson Inc. v. TCL Commc'n Tech. Holdings Ltd.*, 955 F.3d 1317, 1326 (Fed. Cir. 2020) (finding claim abstract despite reciting functional "security access manager" and "technical jargon"), *cert denied*, 141 S. Ct. 2624 (2021).

Similar to the ineligible idea of "configuring and transmitting hospitality menu related information using a system that is capable of synchronous communications and automatic formatting" in *Domino's Pizza*, 792 Fed. Appx. at 786, the claims here are directed to the abstract idea of automatically transferring modified files and information across multiple generic computer systems. The claims are "not directed to a patent-eligible improvement to computer functionality." *Customedia Techs., LLC v. Dish Network Corp.*, 951 F.3d 1359, 1365 (Fed. Cir. 2020) (citation omitted). The claims "do not enable computers to operate more quickly or efficiently, nor do they solve any technological problem." *Id*. Instead, the claims merely recite steps that have historically been performed manually to be performed via automated process by general computer systems. *Univ. of Fla. Research Found., Inc. v. Gen. Elec. Co.*, 916 F.3d 1363, 1367 (Fed. Cir. 2019) (invalidating claims which sought "to automate 'pen and paper methodologies' to conserve human resources and minimize errors" as "quintessential 'do it on a computer'" claims). As an example, legal assistants have long performed the practice of scanning drafts of legal motions and briefs inundated with handwritten edits and comments from lawyers, and then circulating these latest versions of the documents to others. Similarly, accountants have manually updated records and then circulated the latest versions of these records to others.

Based on Topia's own admissions, the '561 patent's claims are directed to systems and methods of automatically transferring modified electronic files to networked devices. *See* Complaint ¶ 12. The '942 patent looks to the communication state of the networked devices to automatically transfer the latest versions of documents. *See* Complaint ¶ 33. The '607 patent adds the step of transferring metadata before the copy of the modified file. *See* Complaint ¶ 44. The '787 patent claims that the user interface on the networked devices indicates whether the file has been updated. *See* Complaint ¶ 55. The '823 patent's claims specify that the modified metadata is

given higher priority in the transfer than the file itself. *See* Complaint ¶ 67. The '622 patent specifies that the modified file replaces an older version of the file. *See* Complaint ¶ 77. Nowhere do the patents instructs *how* the data and files are processed, examined, or transferred. The patents do not claim any specific technological improvements, such as novel technologies for analyzing or transferring specific types of files, or specific inventive software or hardware configurations for performing the claimed methods; rather, they merely claim the abstract idea of transmitting the latest versions of files (including the updated files themselves or the shorthand metadata about the updated files). *See Versata Software, Inc. v. NetBrain Techs., Inc.*, 2015 U.S. Dist. LEXIS 132000, *25 (D. Del. Sept. 30, 2015) (Burke, M.J.) (citing *TriPlay, Inc. v. WhatsApp Inc.*, 2015 U.S. Dist. LEXIS 55068 (D. Del. Apr. 28, 2015) (concluding that elements of claim associated with computer technology were well overtaken by the articulation of the abstract idea itself)) (internal citation omitted).

"A process that start[s] with data, add[s] an algorithm, and end[s] with a new form of data [is] directed to an abstract idea." *SAP Am.*, 898 F.3d at 1167. As with the invalid patent claims in *Apple*, the asserted patents "do not claim a particular way of programming or designing the software . . . but instead merely claim the resulting systems" and "are not directed to a specific improvement in the way computers operate." *Apple*, 842 F.3d at 1241 (citations omitted). Significantly, it is not the technology of synchronizing that the patents claim, but merely the idea of performing synchronization. The asserted patents "do[] not sufficiently describe *how* to achieve these results in a non-abstract way." *Two-Way Media Ltd. v. Comcast Cable Commc'ns, LLC*, 874 F.3d 1329, 1337-38 (Fed. Cir. 2017) (emphasis added). Like the invalid claims in *Domino's Pizza*, the claims here provide only "essentially result-focused and functional language" without "specifics of a particular conception of *how* to carry out" their desired goals as a technical matter.

Domino's Pizza, 792 Fed. Appx. at 786 (citations omitted) (emphasis added).As such, the asserted patents fail *Alice* Step One.

D. *Alice* Step Two: The Asserted Claims Do Not Recite an Inventive Concept

At Step Two of the *Alice* inquiry, the asserted patents recite no inventive concept. Whether taken individually or in combination, the claims recite only generic and conventional components that are to be programmed, in some unspecified way, to achieve the stated results. The specification admits that the proposed system uses only conventional hardware and unspecified software programming. *See, e.g.*, '561 patent at 5:14:16 ("an exemplary system for implementing the invention includes a general purpose computing device"). Nothing in the claims recites significantly more than the abstract idea to transform the claims into a concrete eligible invention.

The asserted claims fail to recite any inventive concept that confers patent-eligibility. "To save a patent at step two, an inventive concept must be evident in the claims." *RecogniCorp, LLC v. Nintendo Co., Ltd.*, 855 F.3d 1322, 1327 (Fed. Cir. 2017). The inventive concept must provide "significantly more" than the abstract idea itself. *BSG Tech LLC v. Buyseasons, Inc.*, 899 F.3d 1281, 1289-90 (Fed. Cir. 2018). Elements like the ones here that are "well-understood, routine, conventional," or "purely functional" cannot confer patent-eligibility. *Alice*, 573 U.S. at 225-26 (citation omitted); *TLI Commc'ns LLC v. AV Auto., LLC*, 823 F.3d 607, 611-12 (Fed. Cir. 2016). "There is no 'inventive concept' if a claim only recites an abstract idea implemented using 'generic' technology to 'perform well-understood, routine, and conventional activities commonly used in the industry.'" *Versata*, 2015 U.S. Dist. LEXIS 132000 at *25 (quoting *Content Extraction & Transmission LLC v. Wells Fargo Bank, N.A.n*, 776 F.3d 1343, 1348 (Fed. Cir. 2014)). "Neither 'limiting the use of an abstract idea to a particular technological environment[,]' nor simply stating an abstract idea and adding the words 'apply it[,]' will transform an abstract idea into a patent-eligible invention. *Id.* (quoting *Alice*, 573 U.S. at 209).

Topia's asserted patents claim nothing more than a "[w]holly generic computer implementation" with "purely functional" elements. *Alice*, 573 U.S. at 209; *TLI*, 823 F.3d at 612. They do not claim any specialized hardware or software components. "Claim limitations that recite conventional, routine and well understood applications in the art are insufficient to supply an inventive concept." *BSG Tech*, 899 F.3d at 1290 (internal citation omitted). The asserted patents admit that the claimed processes can be performed by general computers. For instance, the '561 Patent makes clear that the invention uses "an exemplary system for implementing the invention" including "a general purpose computing device" with generic components such as "a processing unit 120, a system memory 130, and a system bus 121" which uses "Industry Standard Architecture …." *See* '561 Patent, Col. 5, lines 14-29. Moreover, the asserted patents do not claim any programming details or novel software. As the Federal Circuit observed in *Domino's Pizza*, "Claims fall short of an inventive concept when they 'simply instruct the practitioner to implement the abstract idea with routine, conventional activity.'" *Domino's Pizza*, 792 Fed. Appx. at 787 (quoting *Ultramercial, Inc. v. Hulu, LLC*, 772 F.3d 709, 715 (Fed. Cir. 2014)).

Considering each claim as an "ordered combination" of elements does not reveal any inventive concept that is "significantly more" than the abstract idea and is insufficient to "transform the nature of the claim" into a patent-eligible improvement to an underlying technology. *BSG Tech*, 899 F.3d at 1289-90. The claims recite result-oriented features such as receiving data and transferring that data to networked computers to replace prior versions of the data. Topia's asserted patents are similar to the patents this Court found ineligible in *Versata*, which concerned data hierarchies "expressed solely in broad, functional terms." *Versata*, 2015 U.S. Dist. LEXIS 132000 at *47; *see also id.* at *34 (finding that the creation of a particular hierarchy of data and generating an output based on that data is "really nothing more than the

abstract idea itself"). "[A] claimed invention's use of the ineligible concept to which it is directed cannot supply the inventive concept that renders the invention 'significantly more' than that ineligible concept." *Domino's Pizza*, 792 Fed.Appx. at 787 (quoting *BSG Tech*, 899 F.3d at 1290).

The Federal Circuit has instructed district courts to consider whether the claims "focus on a specific means or method that improves the relevant technology or are instead directed to a result or effect that itself is the abstract idea and merely invoke generic processes and machinery." *McRO, Inc. v. Bandai Namco Games Am. Inc*., 837 F.3d 1299, 1314 (Fed. Cir. 2016). The asserted patents do not claim any specific manners of evaluating or processing the updated files and admit that it may be done by general computers and systems. "[T]he claims do no more than describe a desired function or outcome, without providing any limiting detail that confines the claim to a particular solution to an identified problem." *Affinity Labs of Tex., LLC v. Amazon.com Inc*., 838 F.3d 1266, 1269 (Fed. Cir. 2016). The asserted patents do not claim any specific methodologies based on file types or network architecture. The asserted patents, "defining a desirable information-based result and not limited to inventive means of achieving the result, fail under § 101." *Elec. Power Group, LLC v. Alstom S.A*., 830 F.3d 1350, 1351 (Fed. Cir. 2016).

In sum, whether "taken individually or in combination, the recited limitations neither improve the functions of the computer itself, nor provide specific programming, tailored software, or meaningful guidance for implementing the abstract concept." *Intellectual Ventures I LLC v. Capital One Corp.*, 850 F.3d 1332, 1342 (Fed. Cir. 2017). The asserted patents fail *Alice* Step Two.

VI. CONCLUSION

For the foregoing reasons, Egnyte respectfully requests that the Court find that all the claims of the asserted patents recite patent ineligible subject matter and thus are invalid under § 101.

Respectfully submitted,

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