

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

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|-------------------------------------|---|--------------------------|
| SEARCH AND SOCIAL MEDIA PARTNERS, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | C.A. No. 17-1120-LPS-CJB |
| |) | |
| FACEBOOK, INC.; INSTAGRAM, INC, and |) | |
| INSTAGRAM, LLC, |) | |
| |) | |
| Defendants. |) | |
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| LOCATION BASED SERVICES, LLC, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | C.A. No. 18-283-LPS-CJB |
| |) | |
| SONY ELECTRONICS, INC., |) | |
| |) | |
| Defendant. |) | |
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| LOCATION BASED SERVICES, LLC, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | C.A. No. 18-1424-LPS-CJB |
| |) | |
| FANTASTIC FOX, INC., |) | |
| |) | |
| Defendant. |) | |
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| MOAEC TECHNOLOGIES, LLC, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | C.A. No. 18-375-LPS-CJB |
| |) | |
| DEEZER S.A. and DEEZER INC., |) | |
| |) | |
| Defendants. |) | |
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MOAEC TECHNOLOGIES, LLC,)

Plaintiff,)

v.)

C.A. No. 18-376-LPS-CJB

SOUNDCLOUD LIMITED and)
SOUNDCLOUD, INC.,)

Defendants.)

MOAEC TECHNOLOGIES, LLC,)

Plaintiff,)

v.)

C.A. No. 18-377-LPS-CJB

SPOTIFY USA INC.,)

Defendant.)

KONINKLIJKE KPN N.V.,)

Plaintiff,)

v.)

C.A. No. 18-928-LPS-CJB

TCL COMMUNICATION, INC.,)
TCL COMMUNICATION TECHNOLOGY)
HOLDINGS LIMITED, TCT MOBILE, INC.)
and TCT MOBILE (US) INC.,)

Defendants.)

CODING TECHNOLOGIES, LLC,)

Plaintiff,)

v.)

C.A. No. 18-1008-LPS-CJB

PRIMO WATER CORPORATION,)

Defendant.)

ORDER

WHEREAS, the Court has received numerous motions challenging whether one or more patents asserted in the above-captioned actions seeks to claim subject matter that is not eligible for patentability (*see* 35 U.S.C. § 101) (hereinafter “101 Motions”);

WHEREAS, the Court believes certain efficiencies in resolving 101 Motions might be attainable by hearing argument on multiple such motions at essentially the same time;

WHEREAS, the Court seeks to use its limited resources, including the efforts of its Magistrate Judges, in a manner that may promote “the just, speedy, and inexpensive determination of every action and proceeding” (Fed. R. Civ. P. 1);

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The following 101 Motions are **NO LONGER REFERRED** to Judge Burke:
 - i. 18-283 D.I. 11
 - ii. 18-1424 D.I. 8
 - iii. 18-375 D.I. 16, 33
 - iv. 18-928 D.I. 10
 - v. 18-1008 D.I. 12

2. The Court will hear argument on the following 101 Motions at a combined hearing on **Friday, February 8, 2019 from 10:00 a.m. to 1:00 p.m. and from 4:00 p.m. to 5:00 p.m.:**
 - i. *Search and Social Media Partners v. Facebook, Inc., Instagram, Inc., and Instagram, LLC*, 17-1120-LPS-CJB D.I. 25 (Motion for Reconsideration)
 - ii. *Location Based Services, LLC v. Sony Electronics, Inc.*, 18-283-LPS-CJB D.I. 11 (Motion to Dismiss)

- iii. *Location Based Services, LLC v. Fantastic Fox, Inc.*, 18-1424-LPS-CJB D.I. 8 (Motion to Dismiss)
- iv. *Moaec Technologies, LLC v. Deezer S.A. and Deezer Inc.*, 18-375-LPS-CJB D.I. 16 (Motion to Dismiss) and D.I. 33 (Motion for Judgment on the Pleadings)
- v. *Moaec Technologies, LLC v. Soundcloud Limited and Soundcloud, Inc.*, 18-376-LPS-CJB D.I. 11 (Motion to Dismiss)
- vi. *Moeac Technologies, LLC v. Spotify USA Inc.*, 18-377-LPS-CJB D.I. 13 (Motion to Dismiss)
- vii. *Koninklijke KPN N.V. v. TCL Communication, Inc., TCL Communication Technology Holdings Limited, TCT Mobile, Inc., and TCT Mobile (US) Inc.*, 18-928-LPS-CJB D.I. 10 (Motion to Dismiss) [to the extent this motion is not mooted by the filing of the First Amended Complaint and/or is renewed and directed to that First Amended Complaint]
- viii. *Coding Technologies, LLC v. Primo Water Corporation*, 18-1008-LPS-CJB D.I. 12 (Motion to Dismiss)

3. The hearing will be held in **Courtroom 6B**. Chief Judge Stark and Magistrate Judge Burke will preside jointly. Each party in each of the above-captioned actions must be represented by at least one attorney for the entire duration of the hearing (noted in ¶ 2 above). The Court may call for argument on any of the 101 Motions at any time during the hearing.

4. No later than **January 18, 2019**, each party in each of the above-captioned actions shall file a letter brief, **not to exceed three (3) pages**, responding to the questions in the attached 101 Motions Pre-Hearing Checklist.

November 16, 2018
Wilmington, Delaware


HONORABLE LEONARD P. STARK
UNITED STATES DISTRICT COURT

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

Section 101 Pre-Hearing Checklist
(November 2018)

Chief District Judge Leonard P. Stark
Magistrate Judge Christopher J. Burke

The Court will be hearing oral argument on a motion to dismiss and/or motion for judgment on the pleadings which seeks a ruling that one or more claims of the patent(s)-in-suit is not eligible for patenting due to its subject matter. To assist the Court in preparing for the hearing, each party shall, no later than three (3) weeks prior to the hearing, file a letter brief, not to exceed three (3) pages, responding to the following:

1. (a) What claim(s) is/are representative?

(b) For which claim(s) must the Court determine eligibility?
2. (a) Is claim construction necessary before patentability can be decided?

(b) If so, which term(s) must be construed?

© What are your proposed constructions for the terms you contend must be construed?
3. If you are contending that factual dispute(s) should cause the Court to deny the motion, identify with specificity such factual dispute(s).
4. (a) Are there materials other than the complaint/answer and the intrinsic patent record (i.e., the patent and prosecution history) that you contend the Court should consider in evaluating the motion?

(b) If so, identify those materials and the basis on which the Court may properly consider them at this stage.
5. What Supreme Court or Federal Circuit case is this case most like? That is, if the Court is to analogize the claims at issue in the motion to claims that have previously been found to be patent (in)eligible by a higher court, which case provides the best analogy?
6. Why should/shouldn't the Court deny the motion without prejudice to renew at a later stage of this litigation?