

Case No. 2020-1195

United States Court of Appeals  
for the Federal Circuit

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**NETSOC, LLC,**  
Plaintiff - Appellant

v.

**MATCH GROUP, LLC, PLENTY OF FISH MEDIA ULC, HUMOR RAINBOW, INC.,**  
Defendants - Appellees

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APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF TEXAS IN Civil Action No. 3:18-CV-1809,  
Honorable Judge David C. Godbey

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**CORRECTED PETITION FOR REHEARING AND  
REHEARING *EN BANC***

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## CERTIFICATE OF INTEREST

Pursuant to Federal Circuit Rule 47.4(a) and Federal Rule of Appellate Procedure 26.1, counsel for Appellant NETSOC, LLC (“NetSoc”) certifies the following:

1. The full name of every party represented by the undersigned is NetSoc, LLC of 5020 Montrose Blvd., Suite 800, Houston, Texas 77006.

2. The real party in interest is NetSoc, LLC.

3. NetSoc, LLC has no parent corporation and there is no publicly held corporation that owns 10% or more of the stock of either corporation.

4. The names of all law firms and the partners or associates that appeared for NetSoc, LLC in the district court or are expected to appear in this Court are:

William P. Ramey, III  
Donald H. Mahoney III  
Ramey & Schwaller, LLP

5. The title and number of any case known to counsel to be pending in this or any other court or agency that will directly affect or be directly affected by this court’s decision in the pending appeal. See Fed. Cir. R. 47. 4(a)(5) and 47.5(b).

*NetSoc, LLC v. Chegg, Inc.*  
C.A.F.C., No: 2020-1436.

*NetSoc, LLC v. Oath, Inc.*  
C.A.F.C., No: 2020-1437.

*NetSoc, LLC v. Quora, Inc.*  
C.A.F.C., No: 2020-1430.

*NetSoc v. LinkedIn*  
U.S.D.C., N.D.C.A., No: 3:20-cv-00483.

6. None

Date: January 20, 2021

/s/ William P. Ramey, III  
William P. Ramey, III

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## I. FEDERAL CIRCUIT RULE 35(b) STATEMENT

Based on my professional judgment, I believe the panel decision found at *NetSoc v. Match Grp., LLC*, Nos. 2020-1195, 2020-1430, 2020 U.S. App. LEXIS 40845 (Fed. Cir. 2020) (“Decision” or “Written Opinion”) is contrary to the following decision(s) of the U.S. Supreme Court and the precedent(s) of this Court:

1. *Alice Corp. Pty. Ltd. v. CLS Bank Int'l*, 573 U.S. 208, 134 S. Ct. 2347 (2014);
2. *Gottschalk v. Benson*, 409 U.S. 63, 93 S. Ct. 253 (1972);
3. *McRO, Inc. v. Bandai Namco Games Am. Inc.*, 837 F.3d 1299 (Fed. Cir. 2016); and,
4. *CardioNet, LLC v. InfoBionic, Inc.*, 955 F.3d 1358 (Fed. Cir. 2020).

and consideration by the full Court is therefore necessary to secure and maintain uniformity of the court’s decisions.

Further, based on my professional judgment, I believe this proceeding involves one or more questions of exceptional importance, namely:

1. Is the addition of a computer implemented social network, with a novel and unconventional rating system, to a method of organizing human activity *per se* unpatentable as directed to an abstract idea?

2. Is a network computer implemented social network an application of an abstract concept, namely the organizing and rating of human activity, to a new and useful end, therefore remaining eligible for patent protection?
3. In 2003, did the creation of a network computer implemented social network with a novel and unconventional rating system transform it into an improved social network that is something concrete and tangible?



By: \_\_\_\_\_  
William P. Ramey, III

## **II. POINTS OF LAW OR FACT OVERLOOKED OR MISAPPREHENDED BY THE PANEL OF THE COURT**

Appellant requests rehearing and *en banc* reconsideration of this appeal to reaffirm that claims directed to improvements to other technologies or technological processes, beyond computer improvements, may also avoid the full eligibility analysis.<sup>1</sup> Namely, in 2003, a computer implemented social network with a novel and unconventional rating system, while partially composed of abstract concepts, is patent eligible<sup>2</sup> because it facilitates individuals to resolve various life issues in an

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<sup>1</sup> *McRO, Inc. v. Bandai Namco Games Am. Inc.*, 837 F.3d 1299, 1316, 120 USPQ2d 1091, 1103 (Fed. Cir. 2016) (claims to automatic lip synchronization and facial expression animation found eligible at Step 1 of the Alice/Mayo test as directed to an improvement in computer-related technology).

<sup>2</sup> *Gottschalk v. Benson*, 409 U.S. 63, 67, 93 S. Ct. 253 (1972).

improved manner not possible without the network computer implemented social network.<sup>3</sup>

The panel erroneously made an assumption that the claims are directed to “automating the conventional establishment of social networks to allow humans to exchange information and form relationships”<sup>4</sup> even considering that the patent examiner particularly found the rating system to be unconventional<sup>5</sup> and ‘automation’ is never mentioned.<sup>6</sup> The panel further erroneously failed to recognize that the network computer implementation of a social network, with a novel and unconventional rating system, creates an improved social network that is patent eligible.<sup>7</sup>

Further, the Panel’s search for a specific field or specialized component failed to properly determine the focus of the claims, the creation of a computer implemented social network with a novel and unconventional rating system. Not determining the proper focus creates further error by allowing the determination that the claims are not directed towards the creation of something concrete, a network implemented social network, and finding the claims directed towards abstract ideas,

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<sup>3</sup> Appx0020.

<sup>4</sup> Written Opinion at 7.

<sup>5</sup> Appx0068.

<sup>6</sup> *See, generally*, the claims at Appx0028 or the specification at Appx0020-0028.

<sup>7</sup> *Benson*, 409 U.S. at 67.



failing the first step of *Alice*.<sup>8</sup>

Additionally, the Panel erred in finding that a 2003-computer implemented social network with a novel rating system is an abstract idea pertaining to organizing human activity<sup>9</sup> rather than recognizing that the claimed network implemented social network facilitates people in life issues as taught in the specification.

### **III. ARGUMENT IN SUPPORT OF REHEARING**

#### **A. Nothing in the Record Supports the Panel’s Conclusion that Social Networks Are a Long-Standing Practice.**

The Panel incorrectly states, and bases, at least in part, its finding of conventionality, on the incorrect assertion that “the ‘107 patent specification acknowledges that social networks<sup>10</sup> are a long-standing practice.<sup>11</sup> Rather, the specification provides the claimed social networks “facilitate individuals to resolve various life issues[,]” which “may include problems and concerns that arise when individuals or families travel or relocate.... [Described] embodiments ... greatly facilitate corporations in relocating their employees logistically, and also assist

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<sup>8</sup> Written Opinion at 7-8.

<sup>9</sup> Written Opinion at 8.

<sup>10</sup> A social network has a very particular meaning in the art field and is commonly understood as a website that brings people together to talk, share ideas and interests, or make new friends. (Appx0071 at ¶3). This type of collaboration and sharing is known as social media. Unlike traditional media that is created by limited people, social media sites contain content created by hundreds or even millions of different people. (Appx0071 at ¶s4-7).

<sup>11</sup> Written Opinion at 7.

employees and their families with life issues that may determine whether the employees' relocation will be a success.”<sup>12</sup> Thus, one described embodiment that can be implemented with the claims aids in making employee relocations a success. Moreover, the claims “focus on a specific means or method that improves” a social network and thus are patent eligible.<sup>13</sup> Moreover, examination, the claimed rating system was found to cause the claimed social network to function in an unconventional manner.<sup>14</sup>

It belies logic that a 2003-network implemented social network could be considered conventional. This is precisely the reason early dismissals on eligibility grounds without a well-developed record should be rare.<sup>15</sup> The development of a full record would show that in 2003, computer implemented social networks were not conventional.<sup>16</sup> In fact, it was not until 2004 that Facebook launched, but at that time was only available to Harvard students.<sup>17</sup> No human could mentally or manually perform as the claimed computer implemented social network with the novel and unconventional rating system.

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<sup>12</sup> Appx0020 Column 2, lines 4-20 (“2:4-20”).

<sup>13</sup> *McRO, Inc. v. Bandai Namco Games Am. Inc.*, 837 F.3d 1299, 1314 (Fed. Cir. 2016).

<sup>14</sup> Appx0068.

<sup>15</sup> Including, in this case, an Order construing claims. *See Nat. Alts. Int'l, Inc. v. Creative Compounds, LLC*, 918 F.3d 1338, 1354 (Fed. Cir. 2019, Judge Reyna’s concurring opinion)

<sup>16</sup> Appx0070; Appx0071-0073 at ¶s 3-7.

<sup>17</sup> Appx0070.

## **B. The Claimed Social Network Survives the First Step of *Alice*.**

The Supreme Court’s two-step test for examining patent eligibility of alleged “abstract ideas” was never intended as a *per se* rule rendering unpatentable those ideas or concepts because, at some level, all inventions “embody, use, reflect, rest upon, or apply laws of nature, natural phenomena, or abstract ideas.”<sup>18</sup> When those concepts are put “to a new and useful end ... [they] remain eligible for patent protection.”<sup>19</sup> A 2003 computer implemented social network with a novel and unconventional rating system<sup>20</sup> is a “new and useful end” for a social network and is patent eligible.<sup>21</sup> For instance, the ‘107 patent’s specification<sup>22</sup> discusses how the claimed social network facilitates people with life issues like employee relocation.<sup>23</sup>

A computer implemented social network is not unlike the claims in *CardioNet, LLC v. InfoBionic, Inc.*,<sup>24</sup> where this Court found the “focus [of the claims] on a specific means or method that improves” cardiac monitoring technology and not “directed to a result or effect that itself is the abstract idea and merely invoke

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<sup>18</sup> *Alice Corp. Pty. Ltd. v. CLS Bank Int’l*, 573 U.S. 208, 218, 134 S. Ct. 2347 (2014) (quoting *Benson*, 409 U.S. at 67).

<sup>19</sup> *Id.*

<sup>20</sup> Appx0066-0069.

<sup>21</sup> *See, e.g., CLS Bank Int’l*, 573 U.S. at 218 (quoting *Benson*, 409 U.S. at 67).

<sup>22</sup> *See Chamberlain Grp., Inc. v. Techtronic Indus. Co.*, 935 F.3d 1341, 1346 (Fed. Cir. 2019) (“[T]he specification [is] helpful in illuminating what a claim is ‘directed to.’”)

<sup>23</sup> Appx0020 at 2:4-20.

<sup>24</sup> 955 F.3d 1358 (Fed. Cir. 2020).

generic processes and machinery.”<sup>25</sup> This Court used the written description to confirm its conclusion, which explained “by identifying ‘variability in the beat-to-beat timing . . . as relevant to the at least one of atrial fibrillation and atrial flutter in light of the variability in the beat-to-beat timing caused by ventricular beats identified by the ventricular beat detector,’ the claimed invention achieves multiple technological improvements. First and foremost, the device more accurately detects the occurrence of atrial fibrillation and atrial flutter—as distinct from V-TACH and other arrhythmias—and allows for more reliable and immediate treatment of these two medical conditions” [] and ... to identify sustained episodes of atrial fibrillation and atrial flutter that have ‘increased clinical significance.’”<sup>26</sup> Similarly, the specification of the ‘107 patent are more akin to a technological improvement, an unconventional network computer implemented social network that facilitates people with life issues.

Other comparable cases from this Court include *Visual Memory LLC v. NVIDIA Corp.*<sup>27</sup> where this Court found the claims directed to an “improved computer memory system, not to the abstract idea of categorical data storage.”<sup>28</sup> Similarly, one of the advantages of the claims of the ‘107 patent is described in the

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<sup>25</sup> *InfoBionic, Inc.*, 955 F.3d at 1368.

<sup>26</sup> *Id.* at 1370-71 citing '207 patent col. 3 ll. 6-16, 16-20, 21-26, 35-39.

<sup>27</sup> 867 F.3d 1253 (Fed. Cir. 2017).

<sup>28</sup> *Id.* at 1259.

specification as making employee relocation a success.<sup>29</sup> Such factual determinations have been found important in the eligibility analysis.<sup>30</sup>

At the heart of the district court's erroneous step one analysis is the incorrect assumption that the claims are directed to automating known techniques.<sup>31</sup> It is difficult to fathom how any human could mentally (or manually) create a social network with the claimed novel and unconventional rating system, based at least in part on tracked response time. While a human can match classifications, for a conventional social network, it is the rating based at least in part on tracked response time that is unconventional about the computer implemented social network and not fathomably performed by a human. In fact, the Panel did not identify that any social network where a human performed the rating as claimed.<sup>32</sup>

#### **IV. ARGUMENT IN SUPPORT OF REHEARING EN BANC**

Based on my professional judgment, I believe this proceeding involves one or more questions of exceptional importance, namely:

Whether a 2003-network computer implemented social network with a novel and unconventional rating system is an application of an abstract concept, namely the organizing and rating of human activity, to a new and useful end, therefore

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<sup>29</sup> Appx0020 at 2:4-20.

<sup>30</sup> *NVIDIA Corp.*, 867 F.3d at 1259-60.

<sup>31</sup> *See, e.g., InfoBionic, Inc.*, 955 F.3d at 1378.

<sup>32</sup> *Id.* at 1378.

remaining eligible for patent protection? In 2003, did the creation of a network computer implemented social network with a novel and unconventional rating system transform it into an improved social network that is something concrete and tangible? Is it proper to dismiss on eligibility grounds under Rule 12 when the patent's specification specifically provides that the claimed invention facilitates people with life issues?

## V. CONCLUSION

Appellants respectfully request this Court grant this Petition for a rehearing and reconsideration *en banc*.

Date: January 14, 2020

Respectfully submitted,

Ramey & Schwaller, LLP



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**ATTORNEYS FOR NETSOC, LLC**

# ADDENDUM

NOTE: This disposition is nonprecedential.

**United States Court of Appeals  
for the Federal Circuit**

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**NETSOC, LLC,**  
*Plaintiff-Appellant*

v.

**MATCH GROUP, LLC, PLENTYOFFISH MEDIA  
ULC, HUMOR RAINBOW, INC.,**  
*Defendants-Appellees*

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2020-1195

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Appeal from the United States District Court for the  
Northern District of Texas in No. 3:18-cv-01809-N, Judge  
David C. Godbey.

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**NETSOC, LLC,**  
*Plaintiff-Appellant*

v.

**QUORA, INC.,**  
*Defendant-Appellee*

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2020-1430

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Appeal from the United States District Court for the Northern District of California in No. 3:19-cv-06518-VC, Judge Vince Chhabria.

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Decided: December 31, 2020

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WILLIAM PETERSON RAMEY, III, Ramey & Schwaller, LLP, Houston, TX, argued for plaintiff-appellant.

ROBERT L. GREESON, Norton Rose Fulbright US LLP, Dallas, TX, argued for defendants-appellees in 2020-1195. Also represented by STEPHANIE DEBROW, Austin, TX; ERIK OWEN JANITENS, Houston, TX.

STEVEN MOORE, Kilpatrick Townsend & Stockton LLP, San Francisco, CA, argued for defendant-appellee in 2020-1430. Also represented by RICHARD W. GOLDSTUCKER, Atlanta, GA; JORDAN TRENT JONES, Menlo Park, CA; MEGAN ELIZABETH BUSSEY, New York, NY.

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Before TARANTO, CHEN, and STOLL, *Circuit Judges*.

STOLL, *Circuit Judge*.

NetSoc, LLC appeals the United States District Court for the Northern District of Texas’s dismissal of certain patent infringement allegations against Match Group, LLC, PlentyofFish Media ULC, and Humor Rainbow, Inc. (collectively, “Match”), and the United States District Court for the Northern District of California’s dismissal of certain patent infringement allegations against Quora, Inc. The Texas district court held the asserted claims of NetSoc’s U.S. Patent No. 9,978,107 ineligible under 35 U.S.C. § 101, and the California district court similarly held the asserted claims of NetSoc’s related U.S. Patent No. 9,218,591

ineligible under 35 U.S.C. § 101. We conclude that the claims of both the '107 and '591 patents are directed to patent-ineligible subject matter. Accordingly, we affirm the decisions of both district courts.

## BACKGROUND

### I

NetSoc sued Match for infringing all claims of the '107 patent and sued Quora for infringing all claims of the '591 patent. The '107 patent is a continuation of the '591 patent (collectively, the “asserted patents”), and the asserted patents share a common specification.<sup>1</sup> The asserted patents relate to “a system and method for establishing and using a social network to facilitate people in life issues.” '107 patent col. 1 ll. 40–41. For example, the invention of the asserted patents addresses “problems and concerns that arise when individuals or families travel or relocate,” such as “logistic problems, problems arising with assimilating family members in a community, and . . . roommate pairings.” *Id.* at col. 2 ll. 6–12.

The specification discloses a computer system and methods that maintain a list “of participants who can assist in resolving issues at [a] particular geographic location.” *Id.* at col. 2 ll. 21–23. A user may submit an inquiry related to a selected category of those issues. *Id.* at col. 2 ll. 24–30. That inquiry can be sent as a message to participants either through a service or directly to a participant selected by the user. *Id.* at col. 2 ll. 28–47. Users are “enabled to communicate with the selected participant(s) over an online medium,” such that contact information of the participants “may be shielded from the user,” *id.* at col. 8 ll. 50–58, or “blind” connections may be formed between

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<sup>1</sup> When referencing the common specification, we cite to the '107 patent.

users and participants, *id.* at col. 13 ll. 18–20. The performance of participants may be tracked by:

- (i) timing how long it takes for the identified issue resolver [(i.e., a participant)] to get back to the user,
- (ii) if subsequent communications are exchanged between user and issue resolver, timing the responsiveness of the issue resolver to each user communication,
- (iii) receiving feedback from the user on how well the issue resolver resolved the user’s issue, [or]
- (iv) other objective or subjective criteria for determining the effectiveness of the issue resolver for the user.

*Id.* at col. 9 ll. 60–67.

## II

Match moved the Texas district court to dismiss NetSoc’s complaint, arguing that the ’107 patent claimed patent-ineligible subject matter under § 101. The district court granted Match’s motion, concluding that the claims of the ’107 patent are directed to an abstract idea, and that they fail to articulate an inventive concept. *NetSoc, LLC v. Match Grp., LLC*, No. 3:18-CV-01809-N, 2019 WL 3304704, at \*3 (N.D. Tex. July 22, 2019). Particularly, the district court explained that the claims “are predicated on presenting results of data collection and analysis” and do not “require[] anything other than conventional computer hardware.” *Id.* at \*2–3. Similarly, Quora moved the California district court to dismiss NetSoc’s complaint, arguing that the ’591 patent claimed patent-ineligible subject matter under § 101. There, the district court granted Quora’s motion, determining that the claims of the ’591 patent are directed to “the abstract idea of a social network,” and that the claims’ purported improvements to that social network “do not transform the idea into a patent-eligible application.” *NetSoc, LLC v. Quora, Inc.*, No. 19-CV-06518-VC, 2020 WL 415919, at \*1 (N.D. Cal. Jan. 27, 2020).

NetSoc appeals both decisions. These cases were consolidated on appeal for oral argument. We have jurisdiction pursuant to 28 U.S.C. § 1295(a)(1).

#### DISCUSSION

We apply regional circuit law when reviewing a district court's dismissal for failure to state a claim. *XY, LLC v. Trans Ova Genetics, LC*, 968 F.3d 1323, 1329 (Fed. Cir. 2020). Both the Fifth Circuit and the Ninth Circuit review such dismissals de novo, accepting all well-pleaded facts as true and viewing those facts in the light most favorable to the plaintiff. *Shakeri v. ADT Sec. Servs., Inc.*, 816 F.3d 283, 290 (5th Cir. 2016); *Yagman v. Garcetti*, 852 F.3d 859, 863 (9th Cir. 2017).

#### I

Section 101 defines patent-eligible subject matter as “any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof.” 35 U.S.C. § 101. The Supreme Court has held that this provision contains an important exception: “Laws of nature, natural phenomena, and abstract ideas are not patentable.” *Alice Corp. v. CLS Bank Int'l*, 573 U.S. 208, 216 (2014) (quoting *Ass'n for Molecular Pathology v. Myriad Genetics, Inc.*, 569 U.S. 576, 589 (2013)).

“[T]he Supreme Court articulated a two-step test for examining patent eligibility when a patent claim is alleged to involve one of these three types of subject matter.” *CardioNet, LLC v. InfoBionic, Inc.*, 955 F.3d 1358, 1367 (Fed. Cir. 2020); see *Alice*, 573 U.S. at 217–18. The first step of the *Alice* test requires a court to “determine whether the claims at issue are directed to a patent-ineligible concept.” *Alice*, 573 U.S. at 218. “[T]he claims are considered in their entirety to ascertain whether their character as a whole is directed to excluded subject matter.” *McRO, Inc. v. Bandai Namco Games Am. Inc.*, 837 F.3d 1299, 1312 (Fed. Cir. 2016) (quoting *Internet Pats. Corp. v. Active*

*Network, Inc.*, 790 F.3d 1343, 1346 (Fed. Cir. 2015)). If the claims are directed to a patent-ineligible concept, the second step of the *Alice* test requires a court to “examine the elements of the claim to determine whether it contains an ‘inventive concept’ sufficient to ‘transform’ the claimed abstract idea into a patent-eligible application.” *Alice*, 573 U.S. at 221 (quoting *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 72, 78–79 (2012)). “This inventive concept must do more than simply recite ‘well-understood, routine, conventional activity.’” *FairWarning IP, LLC v. Iatric Sys., Inc.*, 839 F.3d 1089, 1093 (Fed. Cir. 2016) (quoting *Mayo*, 566 U.S. at 79–80).

## II

We first consider the claims of the ’107 patent. Though we consider each claim for purposes of our § 101 analysis, we duplicate claim 1 here as an illustrative claim.

1. A method for establishing a social network, the method being implemented on a network computer system and comprising:

maintaining a list comprising a plurality of participants, wherein each participant in the plurality of participants corresponds to one or more individuals, wherein the list also includes information associated with at least one of each participant or the one or more individuals that correspond to each participant;

presenting a user with an interface from which the user makes a selection of a category from a plurality of categories;

in response to receiving the selection of the category by the user,

displaying, for the user, some of the information associated with each of multiple participants from the plurality of participants which match the

selection of the category by the user, while shielding contact information associated with each of the multiple participants;

wherein displaying some of the information associated with each of the multiple participants is based at least in part on a rating of individual participants in the plurality of participants;

enabling the user to send an inquiry message to one or more of the multiple participants, while shielding the contact information from the user, the contact information including any messaging identifier that is associated with each of the one or more participants;

tracking a response time of each of the one or more participants who received the message from the user; and

updating the rating associated with each of the one or more participants based at least in part on the tracked response time.

'107 patent col. 17 ll. 15–48.

We determine that, under *Alice* step one, the claims of the '107 patent are directed to the abstract idea of automating the conventional establishment of social networks to allow humans to exchange information and form relationships. The '107 patent claims recite steps for establishing a social network on a computer. The '107 patent specification acknowledges that social networks are a longstanding practice and that, “[u]nder a current approach, . . . a human resource department, or other internal relocation departments,” may “facilitate the entire arduous process of relocation.” *Id.* at col. 10 ll. 16–19. It goes on to explain that without support from these departments, someone “may spend a great deal of time conducting research through generic sources,” but would ultimately have “no assistance, or guidance, other than other general

non-personal assistance.” *Id.* at col. 11 ll. 6–17. Thus, in providing “access to a software suit[e]” to overcome not having this assistance in the relocation process, *id.* at col. 11 ll. 20–21, the invention claimed in the ’107 patent “qualifies as an ‘abstract idea’ for which computers are invoked merely as a tool,” *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1336 (Fed. Cir. 2016); *see also Credit Acceptance Corp. v. Westlake Servs.*, 859 F.3d 1044, 1055 (Fed. Cir. 2017) (“[M]ere automation of manual processes using generic computers does not constitute a patentable improvement.”).

Moreover, the claimed invention of establishing a social network is an abstract idea “pertaining to methods of organizing human activity.” *In re TLI Commc’ns LLC Pat. Litig.*, 823 F.3d 607, 613 (Fed. Cir. 2016) (citing *Intellectual Ventures I LLC v. Cap. One Bank (USA)*, 792 F.3d 1363, 1367 (Fed. Cir. 2015) (finding the claim at issue “not meaningfully different from the ideas found to be abstract in other cases before the Supreme Court and our court involving methods of organizing human activity”)). Namely, “maintaining” a list of participants, “presenting” a user with selectable categories, “displaying” participant information based on the selected category, “shielding” contact information, “enabling” the user to send a message to participants, “tracking” a response time of participants, and “updating” participant ratings are all human activities that the claims more efficiently organize by applying them to a “network computer system.” ’107 patent col. 17 ll. 15–48.

At *Alice* step two, we do not discern “an ‘inventive concept’ sufficient to ‘transform’ the claimed abstract idea into a patent-eligible invention.” *Alice*, 573 U.S. at 221 (quoting *Mayo*, 566 U.S. at 72, 78–79). The claim limitations fail to add a technological improvement to the computer or otherwise provide “something more” to “transform” the claims. *See id.* at 217. Rather, the ’107 patent claims are quintessential “apply it with a computer” claims. *See id.* at 223

(“Stating an abstract idea while adding the words ‘apply it with a computer’ simply combines those two steps, with the same deficient result.”).

We find unpersuasive NetSoc’s arguments that the “rating” limitations—“tracking a response time of each of the one or more participants who received the message from the user” and “updating the rating associated with each of the one or more participants based at least in part on the tracked response time,” ’107 patent col. 17 ll. 43–48—render the claims patent eligible. Neither tracking a participant’s response time nor using that response time to update a participant’s rating represents a technological improvement that would render the claims non-abstract. Indeed, the specification discloses that, without the invention, a “human resource department” can handle the “entire arduous process of relocation,” *see id.* at col. 10 ll. 17–19, which would include making judgments about who might be a good source of information based on response time. Nor do the “rating” limitations, or any other limitation, otherwise provide an inventive concept that transforms the claims into an eligible application.

## II

We next consider the claims of the ’591 patent. Again, though we consider each claim for purposes of our § 101 analysis, we duplicate claim 1 here as an illustrative claim.

1. A method for establishing a social network, the method comprising:

maintaining a list comprising a plurality of participants, wherein each participant in the plurality of participants corresponds to one or more individuals, wherein the list also includes information associated with at least one of each participant or the one or more individuals that correspond to each participant;



presenting a user with a plurality of categories from which the user may make a selection of a category from the plurality of categories;

receiving the selection of the category by the user;

in conjunction with the selection of the category, receiving an electronic communication from the user for an unidentified respondent, wherein the electronic communication contains an inquiry of the user;

after receiving the selection of the category by the user, selecting one or more participants from the list to receive the electronic communication, wherein selecting is based at least in part on the selection of the category or the information associated with at least one of each participant or the one or more individuals that correspond to each participant;

sending the inquiry to the selected one or more participants;

receiving a response to the inquiry from the selected one or more participants, the response from each of the one or more participants including biographical information about that participant;

publishing at least a portion of the response from each of the selected one or more participants for other users to view, wherein publishing is performed without identifying the user but includes providing biographical information about the participant who provided the response;

tracking feedback for each of the selected one or more participants based at least in part on the published portion of the response, including determining a rating from the user for at least one of the selected one or more participants.

'591 patent col. 16 l. 63–col. 17 l. 34.

We conclude that the claims of the '591 patent are also directed to an abstract idea under *Alice* step one. As with the claims of the related '107 patent, the '591 patent claims are directed to automating the longstanding practice of establishing a social network to allow humans to exchange information and form relationships. The claim limitations of “maintaining” a list of participants, “presenting” a user with selectable categories, “receiving” the user’s category selection, “receiving” an inquiry from the user, “selecting” a participant to receive the user’s inquiry, “sending” the inquiry to the participant, “receiving” a response to the inquiry from the participant, “publishing” the response, and “tracking” feedback of the participants, '591 patent col. 16 l. 63–col. 17 l. 34, are directed to automating a longstanding, well-known method of organizing human activity, similar to concepts previously found to be abstract. *See In re TLI Commc’n LLC Pat. Litig.*, 823 F.3d at 613; *see also Intellectual Ventures I LLC*, 792 F.3d at 1367.

Turning to *Alice* step two, we also do not discern “an ‘inventive concept’ sufficient to ‘transform’ the claimed abstract idea into a patent-eligible application.” *Alice*, 573 U.S. at 221 (quoting *Mayo*, 566 U.S. at 72). As with the '107 patent claims, the '591 patent claims are quintessential “apply it with a computer” claims. *See id.* at 223. We are unpersuaded by NetSoc’s arguments that the “rating” limitation in the '591 patent recites an improvement to the underlying technology and thus renders the claims patent eligible. Contrary to NetSoc’s contention, the limitation “tracking feedback for each of the selected one or more participants based at least in part on the published portion of the response, including determining a rating from the user for at least one of the selected one or more participants,” '591 patent col. 17 ll. 30–34, is itself directed to an abstract idea. As we have held, “[t]he abstract idea itself cannot supply the inventive concept.” *Trading Tech. Int’l, Inc. v. IBG LLC*, 921 F.3d 1378, 1385 (Fed. Cir. 2019)

(citing *SAP Am., Inc. v. InvestPic, LLC*, 898 F.3d 1161, 1171 (Fed. Cir. 2018)).

CONCLUSION

We have considered NetSoc's remaining arguments, including its arguments that the district courts erred by ignoring factual issues precluding a determination of ineligibility at the Rule 12(b)(6) stage, and find them unpersuasive. For the foregoing reasons, we affirm both district courts' decisions to dismiss, as the asserted patents claim unpatentable subject matter.

**AFFIRMED**

COSTS

No costs.

**United States Court of Appeals  
for the Federal Circuit**

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**NETSOC, LLC,**  
*Plaintiff-Appellant*

v.

**MATCH GROUP, LLC, PLENTYOFFISH MEDIA  
ULC, HUMOR RAINBOW, INC.,**  
*Defendants-Appellees*

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2020-1195

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Appeal from the United States District Court for the  
Northern District of Texas in No. 3:18-cv-01809-N, Judge  
David C. Godbey.

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**NETSOC, LLC,**  
*Plaintiff-Appellant*

v.

**QUORA, INC.,**  
*Defendant-Appellee*

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2020-1430

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Appeal from the United States District Court for the Northern District of California in No. 3:19-cv-06518-VC, Judge Vince Chhabria.

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**JUDGMENT**

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THESE CAUSES having been considered, it is

ORDERED AND ADJUDGED:

**AFFIRMED**

ENTERED BY ORDER OF THE COURT

December 31, 2020

/s/ Peter R. Marksteiner  
Peter R. Marksteiner  
Clerk of Court

**CERTIFICATE OF SERVICE**

I certify that I served a copy on counsel of record on January 20, 2021 by ECF filing.

A handwritten signature in black ink, appearing to read 'WPR', with several loops and flourishes extending from the letters.

By: \_\_\_\_\_  
William P. Ramey, III

**CERTIFICATE OF COMPLIANCE WITH FED. R. APP. P. 32(a)(7)(B)**

The undersigned counsel of records for Appellant NETSOC, LLC, certifies that this Request for Rehearing and Rehearing *en banc* complies with the typeface requirement provided in Rule 32(a)(5) and type-volume limitation provided in Rule 32(a)(7)(B) of the Federal Rules of Appellate Procedure. In preparing this certificate, I relied on word-count program of Microsoft Word. This Brief contains 1807 words.

Dated: January 20, 2021

By:



William P. Ramey, III