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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

RICH MEDIA CLUB LLC,

Plaintiff,

v.

MEDIANEWS GROUP, INC.,

Defendant.

Case No.: 25cv2141 DMS (DEB)

**ORDER GRANTING DEFENDANT’S
MOTION TO DISMISS**

This case comes before the Court on Defendant’s motion to dismiss. Plaintiff filed an opposition to the motion, and Defendant filed a reply. Defendant also submitted a Notice of Subsequently Decided Authority. After considering the parties’ briefs, the relevant legal authority, and the record, the Court grants the motion for the reasons set out below.

**I.
BACKGROUND**

Plaintiff is the owner of numerous patents “related to ad viewability, monitoring, confirmation, lazy loading^[1], refreshed ads^[2] and other technological solutions to the

¹ “Lazy loading” refers to “loading ads just before a user is expected to scroll to the content that contains the ad space.” (Compl. ¶ 19.)
² “Ad refresh” “allow[s] for an ad space to be refreshed with a different ad based on various criteria, such as how long or how much (or both) of the ad space had been within the viewport[.]” (*Id.*)

1 placement of ads on web pages.” (*Id.*) Plaintiff alleges its “patented technology” solves
2 the “technological challenge” of “[v]erifying whether an online ad entered a part of a web
3 browser window that was viewable to each of many varied web browser/screen
4 combinations[.]” (*Id.* ¶ 18.)

5 Five of Plaintiff’s patents are at issue in this case: U.S. Patent No. 9,824,074 (“the
6 ‘074 Patent”), U.S. Patent No. 11,004,090 (“the ‘090 Patent”), U.S. Patent No. 11,468,453
7 (“the ‘453 Patent”), U.S. Patent No. 11,741,482 (“the ‘482 Patent”), and U.S. Patent No.
8 12,125,051 (“the ‘051 Patent”). The parties refer to the ‘074, ‘482, and ‘051 Patents as the
9 “Lazy Loading” Patents, and the ‘453 and ‘090 Patents as the “Ad Refresh” Patents. On
10 the ‘074 Patent, the ‘090 Patent, the ‘453 Patent and the ‘482 Patent, Plaintiff alleges
11 infringement of the method claims only. For the ‘051 Patent, Plaintiff alleges infringement
12 of claim 1, which recites “[a] computer program product[.]” ‘051 Patent at 62:64. For the
13 purpose of this motion, the Court finds the following claims of the Patents in Suit are
14 representative:³

15 (1) Claim 16 of the ‘074 Patent, which recites:

16 A method comprising:

17 determining, by code executed by a computing system, whether a predefined
18 area on a content page in which content is to be rendered is at least partially
19 within a visible area of an application window on a display device by
20 comparing coordinates of the predefined area with coordinates of the

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22
23 ³ Plaintiff contends “it would be legal error for the Court to determine that all 98 claims are unenforceable
24 while only considering five of them.” (Opp’n to Mot. at 13.) However, the Federal Circuit has stated
25 “[c]ourts may treat a claim as representative in certain situations, such as if the patentee does not present
26 any meaningful argument for the distinctive significance of any claim limitations not found in the
27 representative claim or if the parties agree to treat a claim as representative.” *Berkheimer v. HO Inc.*, 881
28 F.3d 1360, 1365 (Fed. Cir. 2018) (citations omitted). *See also Sanderling Mgmt. Ltd. v. Snap Inc.*, 65
F.4th 698, 701 n.1 (Fed. Cir. 2023) (“District courts have discretion to require parties litigating Section
101 motions to identify representative claims and to articulate why (or why not) claims are representative
(including by explaining how a limitation missing from a purportedly representative claim could make a
material impact to the Section 101 analysis.”) Plaintiff here has not shown why the claims Defendant
relies on are not representative. Accordingly, the Court treats them as such for the purpose of this motion.

1 application window, the pre-defined area comprising a placeholder location
2 on the content page in which content is to be rendered;

3 determining, by the code executed by the computing system, whether the
4 predefined area on the content page in which content is to be rendered is
5 completely outside of the visible area of the application window and is also
6 within a distance outside of the visible area of the application window by
7 comparing the coordinates of the predefined area with the coordinates of the
8 application window;

9 transmitting, by the code executed by the computing system, one or more
10 indications selected from the group consisting of:

11 an indication that the pre-defined area is at least partially within the
12 visible area of the application window;

13 an indication that the pre-defined area is outside the visible area of the
14 application window; and

15 an indication that the pre-defined area is within the distance outside of
16 the visible area of the application window;

17 in response to determining that the pre-defined area on the content page in
18 which content is to be rendered is at least partially within the visible area of
19 the browser window, provide instructions to:

20 retrieve one or more content files; and render the one or more content
21 files in the pre-defined area on the content page in which content is to
22 be rendered; and

23 in response to determining that the pre-defined area on the content page in
24 which content is to be rendered is completely outside of the visible area of the
25 browser window and is also within the pre-defined distance out-side of the
26 visible area of the browser window, provide instructions to:

27 retrieve the one or more content files; and render the one or more
28 content files in the pre-defined area on the content page in which
content is to be rendered.

'074 Patent, claim 16 (ECF No. 21-2 at 76-77).

(2) Claim 1 of the '482 Patent, which recites:

1 A method for rendering advertisement content in an ad content display
2 page, wherein the ad content display page includes (i) a predefined area
3 configured to display advertisement content, the predefined area being a
4 portion of the ad content display page, and (ii) page content displayed in other
5 portions of the ad content display page, the page content being separate from
6 the advertisement content, the ad content display page being scrollable to
7 allow a portion of the ad content display page to appear in a visible area of a
8 browser window of a browser that is configured to be operated by a remote
9 computing device, the method comprising:

10 (a) determining whether a predefined portion of the predefined area
11 of the ad content display page is in the visible area of the browser window;
12 and

13 (b) in response to a determination that the predefined portion of the
14 predefined area of the ad content display page is in the visible area of
15 the browser window, causing a communication to be sent from the
16 remote computing device to one or more dispatcher servers,
17 wherein the one or more dispatcher servers are configured to:

18 (i) receive the communication, and

19 (ii) cause advertisement content to be served to the remote computing
20 device,

21 wherein the browser is configured to render the advertisement content
22 in the predefined area of the ad content display page, and

23 wherein the advertisement content first appears in the predefined area
24 of the ad content display page only after the one or more dispatcher
25 servers serve the advertisement content to the remote computing device
26 and the browser renders the advertisement content in the predefined
27 area of the ad content display page.

28 ‘482 Patent, claim 1 (ECF No. 21-4 at 121.)

(3) Claim 1 of the ‘051 Patent, which recites:

A computer program product for rendering advertisement content in an ad content display page, wherein the ad content display page includes (i) a predefined area configured to display advertisement content, the predefined area being a portion of the ad content display page, and (ii) page

1 content displayed in other portions of the ad content display page, the page
2 content being separate from the advertisement content, the ad content display
3 page being scrollable to allow a portion of the ad content display page to
4 appear in a visible area of a browser window of a browser that is configured
5 to be operated by a remote computing device, the computer program product
6 comprising a non-transitory computer readable medium tangibly embodying
computer-executable program instructions thereon that, when executed, cause
one or more computing devices to:

7 (a) determine whether a predefined portion of the predefined area of the
8 ad content display page is in the visible area of the browser window;
9 and

10 (b) in response to a determination that the predefined portion of the
11 predefined area of the ad content display page is in the visible area of
12 the browser window, cause a communication to be sent from the remote
13 computing device to one or more dispatcher servers, wherein the one or
more dispatcher servers include computer-executable program
instructions thereon that, when executed:

14 (i) receive the communication, and

15 (ii) cause advertisement content to be served to the remote computing
16 device,

17 wherein the browser is configured to render the advertisement content
18 in the predefined area of the ad content display page, and

19 wherein the advertisement content first appears in the predefined area
20 of the ad content display page only after the one or more dispatcher
21 servers serve the advertisement content to the remote computing device
22 and the browser renders the advertisement content in the predefined
23 area of the ad content display page.

24 ‘051 Patent (ECF No. 21-5 at 122-23.)

25 (4) Claim 5 of the ‘453 Patent, which recites:

26 A method comprising:

27 (a) in response to a determination that a predefined area of an ad
28 content display page is within a predefined distance outside of a

1 visible area of a browser window of a browser configured to be
2 operated by a remote computing device, causing a first
3 communication to be sent to one or more dispatcher servers,

4 wherein the ad content display page includes (i) the predefined area
5 configured to display advertisement content, the predefined area being
6 a portion of the ad content display page, and (ii) page content displayed
7 in other portions of the ad content display page, the page content being
8 separate from the advertisement content, and

9 wherein the one or more dispatcher servers are configured to cause a
10 first advertisement to be served to the remote computing device upon
11 receipt of the first communication, wherein the browser is configured
12 to render the first advertisement in the predefined area;

13 (b) determining whether the predefined area is in view within the
14 viewable area of the browser window on the remote computing device;

15 (c) in response to a determination that the predefined area has been
16 in view within the viewable area of the browser window for a
17 predefined period of time, causing a second communication to be
18 sent to the one or more dispatcher servers, wherein the one or more
19 dispatcher servers are further configured to:

20 (i) receive the second communication;

21 (ii) cause a replacement advertisement to be selected for display on
22 the ad content display page; and

23 (iii) cause the replacement advertisement to be served to the remote
24 computing device;

25 wherein the browser is further configured to render the replacement
26 advertisement in the predefined area.

27 ‘453 Patent, Claim 5 (ECF No. 21-6 at 124-25.)

28 (5) Claim 23 of the ‘090 Patent, which recites:

A method comprising:

designating, by one or more computing systems, a first predetermined area on
an ad content page;

1 providing that, in response to a request, the ad content page with a designation
2 of the predefined area and associated instructions in the form of code are
3 served to a remote computing device operating a browser and displaying a
browser window;

4 providing that the remote computing device determines whether the
5 predefined area is within a predefined distance outside a visible area of the
6 browser window and that in at least partial response to such determination a
7 first ad content is served to the remote computing device and rendered in the
first predetermined area; and

8 wherein the instructions are configured, in conjunction with the browser to
9 direct the computing device to:

10 periodically determine whether the first predetermined area is in view
11 within the visible area of the browser window on the remote computing
12 device; and

13 in response to determining that the first predetermined area has been in
14 view within the visible area of the browser window for predefined time,
15 send a communication to one or more server computing systems;

16 providing that the one or more server computing systems are configured to:

17 receive the communication from the computing device; and in response
18 to receiving the communication from the remote computing device,
19 select a replacement advertisement to display on the page;

20 serve the replacement advertisement to the remote computing device;
21 and

22 the method further providing that the instructions in conjunction with
23 the browser cause that the replacement advertisement is rendered in the
first predetermined area.

24 ‘090 Patent, Claim 23 (ECF No. 21-7 at 125.)

25 II.

26 DISCUSSION

27 Defendant moves to dismiss Plaintiff’s Complaint on the ground the Patents in Suit
28 are directed to an abstract idea and are therefore not patent eligible under 35 U.S.C. § 101.

1 The Supreme Court has devised a two-stage framework to determine whether
2 a claim falls outside the scope of section 101. The prescribed approach
3 requires a court to determine (1) whether the claim is directed to a patent-
4 ineligible concept, i.e., a law of nature, a natural phenomenon, or an abstract
5 idea, and if so (2) whether the elements of the claim, considered “both
individually and as an ordered combination,” add enough to “transform the
nature of the claim into a patent-eligible application.”

6 *Affinity Labs of Texas, LLC v. DirecTV, LLC*, 838 F.3d 1253, 1257 (Fed. Cir. 2016)
7 (quoting *Alice Corp. Pty. Ltd. v. CLS Bank Int’l*, 573 U.S. 208, 217 (2014)) (quotation
8 marks omitted). The Supreme Court has “described step two of this analysis as a search
9 for an ‘inventive concept’—i.e., an element or combination of elements that is ‘sufficient
10 to ensure that the patent in practice amounts to significantly more than a patent upon the
11 [ineligible concept] itself.’” *Alice*, 573 U.S. at 217-18 (quoting *Mayo Collaborative Servs.*
12 *v. Prometheus Labs., Inc.*, 566 U.S. 66, 72-72 (2012)).

13 Whether a claim recites “patent eligible subject matter is a question of law which
14 may contain underlying facts.” *Berkheimer*, 881 F.3d at 1368. Section 101 disputes “may
15 be resolved on a Rule 12(b)(6) motion when there are no factual allegations that, taken as
16 true, prevent resolving the eligibility as a matter of law.” *Uniloc USA, Inc. v. LG Elecs.*
17 *USA, Inc.*, 957 F.3d 1303, 1306 (Fed. Cir. 2020) (citation omitted). Step two of the *Alice*
18 test, for example, may involve a question of fact if it involves a determination as to
19 “whether a claim element or combination of elements is well-understood, routine and
20 conventional to a skilled artisan in the relevant field[.]” *Berkheimer*, 881 F.3d at 1368.
21 But “not every § 101 determination contains genuine disputes over the underlying facts
22 material to the § 101 inquiry.” *Sanderling Mgmt. Ltd.*, 65 F.4th at 702 (quoting
23 *Berkheimer*, 881 F.3d at 1368).

24 **A. The “Lazy Loading” Patents**

25 Starting first with the “Lazy Loading” Patents, on their face, the representative
26 claims are directed to a method or program for determining whether a predefined area is
27 visible on a display. If the predefined area is partially visible or within a predefined
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1 distance of the visible area, then the claims call for transmission of content to the predefined
2 area.⁴ Defendant argues this concept is abstract for a number of reasons.

3 First, Defendant asserts this concept is abstract because determining the relative
4 locations of a predefined area and a visible area “can be done by a human by simply
5 comparing the coordinates of the two areas.” (Mot. at 16.) Plaintiff disagrees, and states
6 the claims are “rooted in technology” and depend on “browser-window geometry.” The
7 Court agrees with Defendant.

8 The Federal Circuit has stated “whether a patent’s claims can be performed in the
9 human mind or using a pencil or paper can inform whether a claim is abstract.” *Broadband*
10 *iTV, Inc. v. Amazon.com, Inc.*, 113 F.4th 1359, 1367 (Fed. Cir. 2024) (citing *PersonalWeb*
11 *Techs. LLC v. Google LLC*, 8 F.4th 1310, 1316 (Fed. Cir. 2021)). Here, the method and
12 program described in the claims, namely, determining whether a predefined area is visible
13 on a larger area, and based thereon, sending content to the predefined area, could be
14 performed in the human mind using a pencil and paper. Plaintiff attempts to avoid this
15 finding by asserting the claims are “rooted in technology,” but grounding the concept in
16 technology does not make the concept any less abstract. *See GoTV Streaming, LLC v.*
17 *Netflix, Inc.*, 166 F.4th 1053, 1064 (Fed. Cir. 2026) (stating “an abstract idea remains an
18 abstract idea even when narrowed—e.g., by subject matter—to a particular use or
19 environment.”); *see also Intellectual Ventures I LLC v. Capital One Bank (USA)*, 792 F.3d
20 1363, 1366 (Fed. Cir. 2015) (“An abstract idea does not become nonabstract by limiting
21 the invention to a particular field of use or technological environment, such as the
22 Internet.”); *Ultramercial, Inc. v. Hulu, LLC*, 772 F.3d 709, 717 (Fed. Cir. 2014) (citing

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25 ⁴ Plaintiff takes issue with this description of the claims, arguing it is “too overgeneralized and too
26 untethered to what the claims say[.]” (Opp’n to Mot. at 14.) However, Plaintiff’s description of the
27 Patents is not meaningfully different from the concept as described by Defendant and adopted by the
28 Court. (*See id.* at 1 (stating both the “Lazy Loading” Patents and the “Ad Refresh” Patents “disclose []
browser-based mechanisms for determining whether a predefined area of a webpage is viewable (or about
to become viewable) and, based on that viewability state, providing, refreshing, or replacing advertising
content.”)) Accordingly, the Court proceeds with this concept.

1 *Alice*, 134 S.Ct. at 2357) (“adding a computer to otherwise conventional steps does not
2 make an invention patent-eligible.”); *Accenture Global Servs., GmbH v. Guidewire*
3 *Software, Inc.*, 728 F.3d 1336, 1345 (Fed. Cir. 2013) (“As we have recently held, simply
4 implementing an abstract concept on a computer, without meaningful limitations to that
5 concept, does not transform a patent-ineligible claim into a patent-eligible one.”) The same
6 goes for Plaintiff’s invocation of “browser-window geometry.” *See RecogniCorp, LLC v.*
7 *Nintendo Co., Ltd.*, 855 F.3d 1322, 1327 (Fed. Cir. 2017) (“Adding one abstract idea (math)
8 to another abstract idea (encoding and decoding) does not render the claim non-abstract.”)

9 Second, Defendant argues the “Lazy Loading” Patents are abstract because they “do
10 not specify any particular method (much less the specific method embodied in the sample
11 code)” for determining whether the predefined area is within the visible area of the display
12 device. (Mot. at 17.) The Federal Circuit has stated that at *Alice* step one “[w]e look to
13 whether the claims in the patent focus on a specific means or method, or are instead directed
14 to a result or effect that itself is the abstract idea and merely invokes generic processes and
15 machinery.” *Two-Way Media Ltd. v. Comcast Cable Comms., LLC*, 874 F.3d 1329, 1337
16 (Fed. Cir. 2017) (citing *McRo, Inc. v. Bandai Namco Games Am. Inc.*, 837 F.3d 1299, 1314
17 (Fed. Cir. 2016)). Here, Plaintiff does not identify any specific means or method for
18 performing the functions recited in the claims. On the contrary, the claims recite only
19 “generic processes and machinery,” such as “code executed by a computing system,” ‘074
20 Patent, claim 16, and “a remote computing device.” ‘482 Patent, claim 1. In other cases,
21 the Federal Circuit has held this kind of “‘result-focused functional language, containing
22 no specificity about how the purported invention achieves those results,’ to be directed to
23 an abstract idea.” *GoTV Streaming*, 166 F.4th at 1064 (citations omitted); *see also Interval*
24 *Licensing LLC v. AOL*, 896 F.3d 1335, 1343 (Fed. Cir. 2018) (stating “those latter claims
25 failed to recite a practical way of applying an underlying idea; they instead were drafted in
26 such a result-oriented way that they amounted to encompassing the ‘principle in the

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1 abstract’ no matter how implemented.”) That principle applies here, and supports
2 Defendant’s arguments that the “Lazy Loading” Patents are abstract.⁵

3 Plaintiff attempts to avoid this finding by arguing the “Lazy Loading” Patents are
4 patent-eligible because they provide a technological solution to a technological problem.
5 (Opp’n to Mot. at 18.) That problem appears to be “determining when unseen portions of
6 a page become visible,” (*id.* at 19), but Plaintiff fails to explain how the “Lazy Loading”
7 Patents solve that particular problem. Instead, Plaintiff simply asserts in general, non-
8 specific terms that the Patents require a computer, that “[o]nly a browser rendering engine”
9 can solve the problem, and that the “solution recited is itself a browser-implemented
10 mechanism for monitoring visibility and coordinating ad delivery in response.” (*Id.* at 19-
11 20.) The Federal Circuit has held, however, “that it is not enough ... to merely improve a
12 fundamental practice or abstract process by invoking a computer merely as a tool.”
13 *Customedia Techs., LLC v. Dish Network Corp.*, 951 F.3d 1359, 1364 (Fed. Cir. 2020).
14 Rather, “[t]o be a patent-eligible improvement to computer functionality,” the Federal
15 Circuit requires “the claims to be directed to an improvement in the functionality of the
16 computer or network platform itself.” *Id.* Plaintiff fails to explain how the “Lazy Loading”
17 Patents meet that standard. Absent that showing, the Court finds the “Lazy Loading”
18 Patents are directed to an abstract idea under *Alice* step one.

19 “At *Alice* step two, we consider the claim elements individually and as an ordered
20 combination to assess whether they ‘transform the nature of the claim into a patent-eligible
21 application of the abstract idea.’ At this step we must ask: ‘[w]hat else is there in the claims
22 before us?’” *AI Visualize, Inc. v. Nuance Comms., Inc.*, 97 F.4th 1371, 1379 (Fed. Cir.
23 2024) (citations omitted).

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26 ⁵ Defendant also relies on a number of cases involving the provision of online advertising to support its
27 argument the “Lazy Loading” Patents are abstract. Although the “Lazy Loading” Patents reference
28 “advertising content” in the specification, the claims themselves do not. Nor do they rely on the type of
“user data” at issue in those other cases, e.g., search history, user location, etc. The Court therefore agrees
with Plaintiff that those cases do not directly apply here.

1 Here, Plaintiff argues the claims “recite the ordered interaction of components, not
2 just a result.” (Opp’n to Mot. at 16.) According to Plaintiff, those components include
3 “requir[ing] a browser to monitor the viewability condition, initiate server-side
4 communication based on that condition, and cause rendering of content in response.” (*Id.*)
5 However, “[t]his ordered combination of steps recites an abstraction—an idea, having no
6 particular concrete or tangible form.” *Ultramercial*, 772 F.3d at 715. In *Ultramercial*, that
7 process involved “receiving copyrighted media, selecting an ad, offering the media in
8 exchange for watching the selected ad, displaying the ad, allowing the consumer access to
9 the media, and receiving payment from the sponsor of the ad[,]” all of which the Federal
10 Circuit described as “an abstract idea, devoid of a concrete or tangible application.” *Id.*
11 That same reasoning applies to the “sequence” described in the “Lazy Loading” Patents.

12 Plaintiff asserts the Court should follow the court in *Rich Media Club LLC v.*
13 *Duration Media LLC*, 681 F.Supp.3d 1032 (D. Ariz. 2023), and find the “Lazy Loading”
14 Patents contain an inventive step. In that case, the court, considering a patent related to the
15 Patents at issue in this case, found the patent contained an inventive concept, namely
16 “implementing a sizing technology in a process for using generic computer equipment in a
17 novel way.” *Id.* at 1042. However, this Court is not persuaded by the reasoning of *Rich*
18 *Media*. Moreover, and more importantly, Plaintiff has not identified what the inventive
19 concept is here, aside from the abstract idea discussed above, and thus does not satisfy
20 *Alice* step two. *See AI Visualize*, 97 F.4th at 1379 (quoting *Alice*, 573 U.S. at 217-18) (“To
21 survive at *Alice* step two, a claim must recite something ‘significantly more’ than an
22 abstract idea itself.”)

23 Plaintiff’s final argument on *Alice* step two is that the Court should not resolve this
24 issue on the present motion. “[A]t the motion to dismiss stage, ‘patentees who adequately
25 allege their claims contain inventive concepts survive a § 101 eligibility analysis under
26 Rule 12(b)(6).’” *Id.* (quoting *Aatrix Software, Inc. v. Green Shades Software, Inc.*, 882
27 F.3d 1121, 1126-27 (Fed. Cir. 2018)). However,

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1 [c]onclusory allegations, or those “wholly divorced” from the claims or the
2 specification, cannot defeat a motion to dismiss. And a patentee that
3 emphasizes a claim’s use of certain technology, for example, a general-
4 purpose computer, fails at step two when the intrinsic record establishes that
the technology is conventional or well-known in the art.

5 *Id.* (citations omitted). That is the case here.

6 For the reasons set out above, the Court finds the “Lazy Loading” Patents fail to
7 satisfy *Alice* and are therefore patent-ineligible. Accordingly, Defendant’s motion to
8 dismiss is granted as to the “Lazy Loading” Patents.

9 **B. The “Ad Refresh” Patents**

10 On the “Ad Refresh” Patents, Defendant argues they are directed to the same concept
11 as the “Lazy Loading” Patents, with the added step of “determining how long the user’s
12 viewport has been in a location, allowing the ad to be visible and then switching the ad at
13 a certain predefined time (i.e., ad refresh).” (Mot. at 22.) Defendant asserts that added
14 step, like the steps of the “Lazy Loading” Patents, is “a quintessential abstract idea that has
15 been used in advertising entirely outside the online environment.” (*Id.*) The Court agrees.

16 Plaintiff attempts to avoid this result by raising a number of arguments, many of
17 which are similar to those raised with respect to the “Lazy Loading” Patents. First, Plaintiff
18 argues Defendant ignores numerous limitations that must be satisfied before an ad is
19 refreshed. One of those limitations is “the technology at issue,” but as discussed above,
20 “[n]arrowing the abstract idea ... to the Internet is an ‘attempt[] to limit the use’ of the
21 abstract idea ‘to a particular technological environment,’ which is insufficient to save a
22 claim.” *Ultramercial*, 772 F.3d at 716 (quoting *Alice*, 134 S.Ct. at 2358). The same goes
23 for the additional limitation of “the machine-driven mechanism for determining whether
24 the ad space is in view (or about to be), which has no analogue in the non-internet world.”
25 (Opp’n to Mot. at 20.)

26 Next, Plaintiff argues, as it did on the “Lazy Loading” Patents, that the “Ad Refresh”
27 Patents are “directed at solving a different, uniquely digital problem and do not simply
28 transplant the concept of ad switching online.” (Opp’n to Mot. at 20-21.) But again,

1 Plaintiff fails to explain how the “Ad Refresh” Patents solve that alleged problem, other
2 than reciting general and generic solutions, e.g., “browser-executed mechanisms.” (*Id.* at
3 21.)

4 Plaintiff also repeats the “ordered combination” argument it raised on the “Lazy
5 Loading” Patents, but the result here is the same as above, namely, that the ordered
6 combination of steps merely recites an abstraction having no particular or tangible form.
7 As the Federal Circuit stated in *GoTV Streaming*, “[t]he claim’s calling for collecting and
8 combining information for presentation to the rendering device does not provide a focus
9 on an advance in non-abstract ideas.” 166 F.4th at 1065.

10 Next, Plaintiff argues the claim language “narrows any purportedly abstract concept
11 by requiring concrete implementation details and describing the mechanics by which a
12 browser and remote systems accomplish switching ads.” (Opp’n to Mot. at 23.) However,
13 there is nothing “concrete” about the steps recited in the claims. They simply recite (1) the
14 use of generic code to determine whether a predefined area is within a visible display, (2)
15 having the browser compute whether the area has been in view for a predefined period of
16 time, and (3) if so, compelling the browser to send a communication to the computing
17 system to “select a replacement advertisement,’ serve it, and cause the browser to render
18 it.” (*Id.*) Plaintiff asserts these steps “narrow any claimed concept by embedding it within
19 a specific technological implementation[,]” (*id.*), but “[g]iven the prevalence of the
20 Internet, implementation of an abstract idea on the Internet ... is not sufficient to provide
21 any ‘practical assurance that the process is more than a drafting effort designed to
22 monopolize the [abstract idea] itself.’” *Ultramercial*, 772 F.3d at 716 (quoting *Mayo*, 132
23 S.Ct. at 1297).

24 Because Plaintiff fails to raise any arguments on *Alice* step two other than the ones
25 discussed and rejected above, the Court finds the “Ad Refresh” Patents are also patent-
26 ineligible under section 101.

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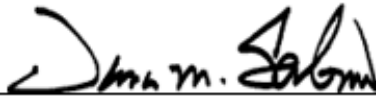
IV.

CONCLUSION

For the reasons set out above, the Court grants Defendant's motion to dismiss. The Clerk of Court shall enter judgment accordingly and close this case.

IT IS SO ORDERED.

Dated: May 22, 2026



Hon. Dana M. Sabraw
United States District Judge