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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNILOC USA, INC.; and UNILOC
LUXEMBOURG, S.A.,

No. C 18-00358 WHA

Plaintiffs,

v.

**ORDER GRANTING
MOTION FOR JUDGMENT
ON THE PLEADINGS**

APPLE INC.,

Defendant.

INTRODUCTION

In this patent infringement action, defendant moves for judgment on the pleadings on the basis that the sole asserted patent herein remains directed to patent-ineligible subject matter. The motion is **GRANTED**.

STATEMENT

Plaintiffs Uniloc USA, Inc., and Uniloc Luxembourg, S.A. (collectively, “Uniloc”), accuse defendant Apple Inc. of both directly and indirectly infringing U.S. Patent No. 6,661,203 (“the ’203 patent”), either literally or under the doctrine of equivalents (Dkt. No. 1 ¶¶ 11, 13).

The ’203 patent claims “[a] method and apparatus for controlling the charge and discharge currents in a battery as a function of temperature” (Dkt. No. 1-2, Abstract). As the patent explains, the process of charging or discharging a rechargeable battery generates “a certain amount of internal heat” proportional to the amount of electrical current flowing through the battery. Devices powered by batteries also usually generate heat during operation. The

1 high temperatures potentially caused by the operation of batteries and adjacent circuitry create a
2 “dilemma” for battery designers. If a designer maintains charge and discharge currents at
3 higher levels with the expectation that the battery will operate at lower temperatures, then
4 battery life and reliability may become compromised if the operating temperature increases. If,
5 on the other hand, a designer maintains charge and discharge currents at lower levels with the
6 expectation that the battery will operate at higher temperatures, then it may take too long for the
7 battery to complete charging and discharging operations. The battery could be located “in a
8 cooler environment” or supplemented with “additional cooling equipment” to counteract
9 overheating, but according to the ’203 patent this remains “undesirable due to increased cost,
10 greater systems complexity, or reduced reliability,” among other things (*id.* at 2:13–57).

11 The ’203 patent describes its claimed invention, which purports to solve the foregoing
12 problem, as follows (*id.* at 2:64–3:5):

13 An apparatus for charging a battery according to its
14 temperature . . . includes a charging circuit adapted to charge a
15 battery and a temperature sensor positioned to sense a battery
16 temperature, i.e., adjacent environmental temperature. The
apparatus includes a controller coupled to the temperature sensor
and the charging circuit. The controller operates to set the
charging current in accordance with the sensed temperature.

17 The claimed invention never teaches any particular algorithm, parameters, variables, or values
18 for controlling current as a function of temperature. Despite being dressed up with
19 “illustrative” tables and flow charts presenting hypothetical examples of specific
20 implementation, the ’203 patent discloses no inventive source code, formula, or circuitry.
21 Instead, the claimed invention remains limited to the high-level concept described above. At a
22 similar level of generality, the ’203 patent describes several broad “refinements” of the claimed
23 invention — including, as nonexhaustive hypothetical examples, controllers that continuously
24 or periodically set charging currents according to sensed temperatures, controllers that reference
25 memorized tables to set the appropriate currents for specific temperatures, and controllers that
26 set currents at maximum or minimum values (including reducing current flow to zero) based on
27 predetermined threshold temperature values (*see id.* at 3:6–25).

28

1 Furthermore, the '203 patent expressly acknowledges how the hardware that would be
2 used to implement its claimed invention existed in the prior art. Specifically, the patent
3 describes at length an “illustrative embodiment” featuring a “smart battery” with which “the
4 present invention is implemented to allow the system to extract maximum performance from the
5 battery without exceeding safe operational constraints for the battery.” According to the patent,
6 the smart battery “industry standard” includes a temperature sensor and a controller with the
7 ability to measure and communicate certain information about the battery’s operation, including
8 “terminal voltage, the rate of current flow into or out of the battery, the charges state . . . and the
9 temperature of the battery” (*id.* at 4:41–5:6). The hardware components may be any of a variety
10 “understood by those possessing ordinary skill in the art” (*id.* at 5:51–60).

11 To repeat, the '203 patent itself makes clear that both the aforementioned operational
12 constraints of battery design and the hardware used to implement said design predate the
13 claimed invention, which remains limited to the high-level concept of adjusting a battery’s
14 current flow based on its temperature. According to the '203 patent, the claimed invention
15 “allows designers to move closer to the absolute limits” of “operational constraints” known to
16 those skilled in the art while avoiding “deleterious effects” like “reduced battery life, reduced
17 battery capacity, and certain potentials for dangerous situations including overheating, fire, and
18 chemical leakage,” and “while still maintaining maximum performance from the battery and the
19 system into which it is installed” (*id.* at 3:61–4:12).

20 Uniloc alleges Apple products infringe the '203 patent because they “incorporate
21 rechargeable batteries having a temperature sensor that, *inter alia*, causes the device to cease
22 charging when the battery temperature exceeds a threshold level.” Put differently, Apple
23 products charge batteries and use sensors to monitor the temperatures of their batteries to avoid
24 overheating (Dkt. No. 1 ¶¶ 10, 12). This action originated in the Eastern District of Texas in
25 May 2017 and transferred to our district in January 2018. It was related to six other patent
26 infringement cases initiated by Uniloc and reassigned to the undersigned judge.

27 Apple now moves for judgment on the pleadings (Dkt. No. 53). This order follows full
28 briefing and oral argument.

ANALYSIS

1. LEGAL STANDARDS.

Federal Rule of Civil Procedure 12(c) provides that, “[a]fter the pleadings are closed — but early enough not to delay trial — a party may move for judgment on the pleadings.” Analysis under FRCP 12(c) is “substantially identical” to analysis under FRCP 12(b)(6). Under both, “a court must determine whether the facts alleged in the complaint, taken as true, entitle the plaintiff to a legal remedy.” *Chavez v. United States*, 683 F.3d 1102, 1108 (9th Cir. 2012). Both sides agree that the pleading standards set forth by *Bell Atlantic Corporation v. Twombly*, 550 U.S. 544 (2007), and *Ashcroft v. Iqbal*, 556 U.S. 662 (2009), govern Uniloc’s claim for relief (*see* Dkt. Nos. 53 at 6, 60 at 7–8).

Here, the complaint asserts “at least” claims 1, 8, and 16 of the ’203 patent. In briefing on the instant motion, Uniloc indicates it also asserts claims 15 and 23 of the ’203 patent, which would appear in its forthcoming disclosures and infringement contentions pursuant to our Patent Local Rules (*see* Dkt. No. 60 at 1 & n.1). Apple points out — and Uniloc does not disagree — that claims 8 and 16 are representative for purposes of the instant motion. Claim 8 recites (Dkt. No. 1-2 at 8:1–15 (emphasis added)):

An apparatus for exercising a battery, comprising

- a charging circuit having a charging current output coupled to the battery;
- a temperature sensor positioned to sense a temperature related to the battery temperature;
- a discharging circuit having a discharging current input coupled to the battery; and
- a controller coupled to said temperature sensor, said charging circuit, and said discharging circuit, said controller operable to set said charging current *in accordance with* said temperature, and operable to set said discharging current *in accordance with* said temperature, said controller being operable to set said discharging current to zero when said temperature is higher than a first predetermined threshold value.

Similarly, claim 16 recites (*id.* at 8:42–49 (emphasis added)):

A method of charging a battery, comprising the steps of:

1 sensing a temperature related to the battery temperature;
2 setting a charging current *in accordance with* said sensed
3 temperature and setting said charging current to zero when
4 said temperature is higher than a first predetermined
5 threshold value; and
6 charging the battery at said charging current.

7 Section 101 of Title 35 of the United States Code defines patent-eligible subject matter
8 as “any new and useful process, machine, manufacture, or composition of matter, or any new
9 and useful improvement thereof.” Under well-established Supreme Court precedent, laws of
10 nature, natural phenomena, and abstract ideas remain patent-ineligible under Section 101. *See,*
11 *e.g., Ass’n for Molecular Pathology v. Myriad Genetics, Inc.*, 569 U.S. 576, 589 (2013)
12 (citations and quotations omitted). The Supreme Court has set forth a two-step “framework for
13 distinguishing patents that claim laws of nature, natural phenomena, and abstract ideas from
14 those that claim patent-eligible applications of those concepts.” Under this framework, a court
15 must first “determine whether the claims at issue are directed to one of those patent-ineligible
16 concepts.” If so, then the court must further “consider the elements of each claim both
17 individually and ‘as an ordered combination’ to determine whether the additional elements
18 ‘transform the nature of the claim’ into a patent-eligible application.” *Alice Corp. Pty. Ltd. v.*
19 *CLS Bank Int’l*, 134 S. Ct. 2347, 2355 (2014) (quoting *Mayo Collaborative Servs. v.*
20 *Prometheus Labs., Inc.*, 566 U.S. 66 (2012)).

21 **2. ALICE STEP ONE.**

22 Apple contends the ’203 patent remains directed to a patent-ineligible concept —
23 namely, adjusting a battery’s current flow based on its temperature (*see* Dkt. No. 53 at 6–13).
24 This order agrees.

25 Supreme Court precedent that predates *Alice* but nevertheless remains instructive
26 supports Apple’s position. For example, *Parker v. Flook* held unpatentable a formula
27 representing “a new and presumably better method for calculating alarm limit values” to signal
28 the presence of abnormal conditions in catalytic conversions of hydrocarbons because the
chemical processes involved were well-known, as were “the practice of monitoring the
chemical process variables, the use of alarm limits to trigger alarms, the notion that alarm limit

1 values must be recomputed and readjusted, and the use of computers for ‘automatic monitoring-
2 alarming,’” and the patent in question did not explain how to manage any specific processes,
3 variables, or alarm systems. *See* 437 U.S. 584, 585–86, 594–95 (1978). *Bilski v. Kappos* held
4 unpatentable “the basic concept of hedging” against the financial risk of price fluctuations in the
5 energy market because risk-hedging was “a fundamental economic practice long prevalent in
6 our system of commerce and taught in any introductory finance class,” and thus an abstract
7 idea. *See* 561 U.S. 593, 598–99, 611–12 (2010). And *Mayo* held unpatentable processes that
8 identified relatively precise correlations between metabolite values in a patient’s bloodstream
9 and the likely harm or ineffectiveness of certain dosages of thiopurine drugs because doctors
10 and scientists in the field at the time already generally understood the metabolite-dosage
11 relationship, and the claimed invention amounted to nothing more than recitation of the
12 relationship with the added instruction to “apply it.” *See* 566 U.S. at 73–74, 77–80.

13 The ’203 patent does not even disclose a novel formula or algorithm like that in *Flook*,
14 but similarly claims a method for navigating admittedly well-known operational constraints
15 with admittedly industry-standard hardware while supplying no details about how to manage
16 specific values, variables, processes, or systems. As the patent in *Bilski* claimed a basic,
17 fundamental practice long prevalent in economics and finance, the ’203 patent here claims a
18 basic, fundamental practice — adjusting electrical current flow to control the heat it generates
19 — long prevalent in physics and engineering. And, like the patent in *Mayo*, the ’203 patent
20 essentially recites a well-understood, plainly patent-ineligible relationship — here, electricity
21 and heat instead of thiopurine drug dosages and metabolite values — with the added instruction
22 to “apply it” by monitoring and adjusting one factor in the relationship to control the other. In
23 short, the ’203 patent remains directed to a concept at least as well-known and fundamental as
24 the concepts at issue in *Flook*, *Bilski*, and *Mayo*. Those binding precedents held such concepts
25 to be patent-ineligible subject matter, and the same result obtains here.

26 Uniloc does not address *Flook* or *Bilski* but purports to distinguish *Mayo* on the basis
27 that the claims in *Mayo* “merely covered measuring the [metabolite-dosage] correlation,”
28 whereas the asserted claims here “do not recite and are not directed to an expression of the

1 abstract idea that current should be related to temperature,” but “require a charging circuit for
2 charging a battery; a temperature sensor to sense a battery temperature; and a controller to
3 control the charging circuit in accordance with the temperature” (*see* Dkt. No. 60 at 12–13).
4 Uniloc’s point in reciting the specific components and functions of its claimed invention
5 remains unclear but seems to be that its claimed invention, unlike the one in *Mayo*, does
6 something more than merely “measuring” a natural relationship.

7 *First*, this mischaracterizes the claimed invention in *Mayo*, which not only measured the
8 metabolite-dosage relationship but also explained that low metabolite levels indicated increased
9 drug dosages while high metabolite levels indicated decreased drug dosages — much like how
10 the claimed invention here explains that low temperatures indicate increased electrical current
11 flow while high temperatures indicate decreased electrical current flow. *See* 566 U.S. at 74–75.

12 *Second*, Uniloc’s assertion that its claimed invention is “not directed to an expression of
13 the abstract idea that current should be related to temperature” is plainly false. The very first
14 sentence of the ’203 patent describes the claimed invention as “[a] method and apparatus for
15 controlling the charge and discharge *currents in a battery as a function of temperature*” (Dkt.
16 No. 1-2, Abstract (emphasis added)). Explanations of the correlation between temperature and
17 current flow, and how to monitor and control the former by manipulating the latter, saturate the
18 rest of the patent and give rise to every advantage claimed by the patent over the prior art. It
19 beggars belief to suggest that Uniloc’s claimed invention, viewed as a whole, has more to do
20 with generic hypothetical assemblies of industry-standard hardware components than with the
21 abstract idea that animates them.

22 Uniloc contends *Diamond v. Diehr*, 450 U.S. 175 (1981), more closely resembles our
23 facts and supports Uniloc’s position (*see* Dkt. No. 60 at 10–14). *Diehr* examined a detailed
24 process invented to mold raw rubber into perfectly-cured products by constantly measuring the
25 temperature inside the mold, repeatedly recalculating the appropriate cure time, and setting the
26 press to open when the calculated cure time equaled actual time elapsed. Although it calculated
27 appropriate cure time using a well-known equation, the claimed process was new in the art,
28 deviated from conventional industry practice, and solved the longstanding industry problem of

1 accounting for the uncontrollable variable of the temperature inside the press in calculating the
2 perfect cure time. 450 U.S. at 177–79. Under those facts, *Diehr* concluded:

3 [W]e think that a physical and chemical process for molding
4 precision synthetic rubber products falls within the § 101
5 categories of possibly patentable subject matter. That respondents’
6 claims involve the transformation of an article, in this case raw,
7 uncured synthetic rubber, into a different state or thing cannot be
8 disputed. The respondents’ claims describe in detail a step-by-step
9 method for accomplishing such, beginning with the loading of a
10 mold with raw, uncured rubber and ending with the eventual
11 opening of the press at the conclusion of the cure. Industrial
12 processes such as this are the types which have historically been
13 eligible to receive the protection of our patent laws.

14 *Id.* at 184.

15 Significantly, *Diehr* distinguished *Flook* on the basis that the rubber-curing method in
16 *Diehr* claimed a specific manufacturing process with all its detailed steps instead of seeking to
17 preempt use of an unpatentable formula like that claimed in *Flook*. *Id.* at 186–87. In doing so,
18 *Diehr* specifically recognized that limiting an otherwise patent-ineligible concept to a
19 “particular technological environment” or tacking on “insignificant post-solution activity” does
20 not transform said concept into a patentable process. But if a claimed invention, considered as a
21 whole, performs “a function which the patent laws were designed to protect (*e.g.*, transforming
22 or reducing an article to a different state or thing), then the claim satisfies the requirements of
23 [Section] 101.” *Id.* at 191–92. As the Federal Circuit put it in *Thales Visionix Inc. v. United*
24 *States*, another decision cited by Uniloc, “In terms of the modern day *Alice* test, the *Diehr*
25 claims were directed to an improvement in the rubber curing process, not a mathematical
26 formula.” 850 F.3d 1343, 1347–48 (Fed. Cir. 2017).

27 Here, in contrast, Uniloc does not claim a detailed step-by-step method to improve a
28 historically-patentable industrial process that just happens to incorporate a well-known equation
at one particular step. Rather, Uniloc claims sweeping, abstract swaths of possible methods and
apparatuses using admittedly industry-standard hardware to implement the patent-ineligible
concept that battery designers can adjust a battery’s current flow to control its temperature. On
these facts, *Flook*, *Bilski*, and *Mayo* remain the better authorities on point and compel the

1 conclusion that, under *Alice* step one, Uniloc’s claims are directed to patent-ineligible subject
2 matter. This order therefore proceeds to step two.

3 **3. ALICE STEP TWO.**

4 The Supreme Court has described step two as “a search for an inventive concept — *i.e.*,
5 an element or combination of elements that is sufficient to ensure that the patent in practice
6 amounts to significantly more than a patent upon the ineligible concept itself.” *Alice*, 134 S. Ct.
7 at 2355 (quotations and citation omitted). Apple contends the ’203 patent contains no inventive
8 concept sufficient to transform its patent-ineligible subject matter into a patentable invention
9 under *Alice* step two (Dkt. No. 53 at 13–18). This order agrees.

10 Uniloc makes several attempts to identify an inventive concept in its claimed invention,
11 none persuasive. *First*, Uniloc compares its claimed invention to that examined in *Thales* (Dkt.
12 No. 60 at 15–16). This comparison is a nonstarter, since *Thales* found the subject matter in
13 question patent-eligible under *Alice* step one and never reached step two. *See* 850 F.3d at 1349.
14 But even if *Thales* could be read to apply to *Alice* step two, its analysis — which, as Uniloc
15 points out, closely followed *Diehr* — remains inapplicable to our facts. *See ibid.* (claims
16 specifying a particular method of using data from a particular “unconventional configuration of
17 sensors” were “directed to a new and useful technique . . . to more efficiently track an object on
18 a moving platform,” not to a mathematical equation or other abstract idea). Contrary to
19 Uniloc’s suggestion, the ’203 patent teaches no inventive “particular configuration of sensors
20 and method of using the raw data” comparable to that in *Thales* (*see* Dkt. No. 60 at 15–16).

21 *Second*, Uniloc argues that its claims pass the machine-or-transformation test because
22 the claimed invention “includes a temperature sensor that transforms heat into an electronic
23 signal . . . and a controller which sets current flow . . . to and/or from a battery, thereby
24 balancing the internally generated heat temperature with the local environment. Thus, the
25 [claims] include specific limitations that are beyond what is well understood and conventional
26 in the predicting user future locations field and are beyond generally linking the abstract idea to
27 a computer environment” (*id.* at 16). This argument is nonsensical. A temperature sensor does
28 not “transform” heat into electricity. A controller does not “transform” anything by setting

1 current flow as a function of corresponding heat generation. The asserted claims have nothing
2 to do with “predicting user future locations.” And it remains unclear how the claimed invention
3 does anything beyond “generally linking” an abstract idea to conventional hardware.

4 *Third*, Uniloc contends its claims would not “preempt the fundamental concept of using
5 temperature to control current in a battery” because “[t]he claims are specifically limited to the
6 process of charging or exercising a battery” (*ibid.*). But Uniloc’s own authorities recognize that
7 limiting a patent-ineligible concept to a “particular technological environment” does not
8 produce a patentable process. *See Diehr*, 450 U.S. at 191–92; *Thales*, 850 F.3d at 1347. Uniloc
9 asserts in conclusory fashion that “[c]harging or exercising a battery’ is not one field of use out
10 of other possible fields of use [but] is the invention’s character” (Dkt. No. 60 at 18). But this is
11 merely attorney argument. The gravamen of Uniloc’s claimed invention is not the process of
12 charging or exercising a battery but a method or apparatus for improving said process *by*
13 *applying the basic concept that reducing a battery’s electrical current flow also reduces its*
14 *temperature*. The risk of monopolizing a patent-ineligible concept flows from that basic
15 concept, not from the context of battery design.

16 In a similar vein, Uniloc contends its claims would not “preempt” a patent-ineligible
17 concept because “[o]ne could easily contemplate numerous inventions that could use a different
18 temperature to control current in a battery.” For example, Uniloc suggests “one could increase
19 the speed of a *battery* operated fan as ambient temperature increased,” “monitor the temperature
20 of an engine and shut it off when it overheated with a *battery* operated circuit,” or “actuate a
21 *battery* operated fire suppression system based on a compartment temperature” (emphasis
22 added). These are counterfeit comparisons, superficially likened to the claimed invention
23 herein by strategic injections of the word “battery” but ultimately irrelevant to the issues at
24 hand. Insofar as Uniloc implies a meaningful distinction between monitoring *only* battery
25 temperature versus monitoring the temperature of adjacent circuitry, the ’203 patent itself belies
26 any such distinction. As the ’203 patent explains, the overheating problem it aims to solve
27 arises from both the battery *and* the “adjacent circuitry” because “a battery may be subjected to
28 heat energy produced by the device it powers as well as the heat the battery produces internally”

1 (Dkt. No. 1-2 at 2:25–33). Consistent with this explanation, and contrary to Uniloc, the ’203
2 patent does not limit its claims to sensing *only* battery temperature but also encompasses
3 sensing temperatures “*related to the battery temperature*” (*e.g., id.* at 8:4–5, 44).

4 Or, perhaps Uniloc means to insinuate it could have claimed ownership over an even
5 broader, more abstract concept — for example, *any* approach to operating *any* battery-powered
6 system based on *any* relevant temperature, as opposed to merely adjusting a battery’s electrical
7 current flow to prevent overheating *of the battery itself* — so its claimed invention seems
8 relatively modest and reasonable in comparison and should pass scrutiny. This reasoning would
9 be specious. That the ’203 patent could have reached even further into patent-ineligible
10 territory does not somehow change the fact that, as it stands, it remains directed to a patent-
11 ineligible concept. And, to repeat, limiting a patent-ineligible concept to a “particular
12 technological environment” or tacking on “insignificant post-solution activity” does not
13 transform it into a patentable process. *See, e.g., Diehr*, 450 U.S. at 191–92.

14 *Fourth*, Uniloc argues that its claimed invention achieves improvements to battery
15 technology relative to “prior art” with different hardware components, like “providing a cooling
16 system” (Dkt. No. 60 at 17). This argument misses the point. The distinction Uniloc points out
17 between its claimed invention and the prior art is not some improvement in hardware
18 configuration but the switch from one underlying concept (adding a cooling system to counter
19 heat generation) to another (reducing electrical current flow to reduce the heat it generates).
20 The bottom line remains that any improvement achieved by Uniloc’s claimed invention stems
21 from mere recitation and application of a patent-ineligible concept.

22 In summary, based on the pleadings, Uniloc’s claimed invention remains directed to
23 patent-ineligible subject matter and contains no inventive concept sufficient to transform the
24 nature of the claims into a patentable application. Apple is therefore entitled to judgment on the
25 pleadings that the asserted claims in this action are invalid under Section 101 and *Alice*.

26 **4. TIMING OF MOTION AND LEAVE TO AMEND.**

27 Uniloc insists a factual issue precludes judgment on the pleadings because the parties
28 disagree as to whether or not the claimed invention features “routine and conventional”

1 elements like hardware configurations (Dkt. No. 60 at 18–19). In support of its position, Uniloc
2 cites the recently-issued *Berkheimer v. HP Inc.*, which held that “[t]he question of whether a
3 claim element or combination of elements is well-understood, routine and conventional to a
4 skilled artisan in the relevant field is a question of fact.” 881 F.3d 1360, 1368 (Fed. Cir. 2018).

5 *Berkheimer*, however, also reiterated that “not every [Section] 101 determination
6 contains genuine disputes over the underlying facts material to the [Section] 101 inquiry.” It
7 acknowledged that “[w]hether a claim recites patent eligible subject matter is a question of law
8 which . . . has in many cases been resolved on motions to dismiss or summary judgment.” It
9 stressed that “[n]othing in this decision should be viewed as casting doubt on the propriety of
10 those cases.” *Ibid.* Contrary to Uniloc, the instant motion tees up no factual dispute over
11 whether or not a claim element or combination of elements “is well-understood, routine and
12 conventional to a skilled artisan in the relevant field.” To the extent Uniloc refers to the
13 hardware components and configurations identified in its claims, the ’203 patent itself explains
14 that those components and configurations were considered industry standard at the time of the
15 claimed invention. To the extent Uniloc refers to the concept of adjusting a battery’s electrical
16 current flow to control its temperature, that concept, as stated, remains patent-ineligible.

17 Uniloc attempts to manufacture a factual question by arguing that it could get around the
18 aforementioned roadblocks if allowed to proceed on the merits. This order disagrees. *First*,
19 Uniloc points out that its claimed invention purports to improve “battery technology, including
20 design, performance, balanced current flow, and long battery life,” but those improvements all
21 pertain to *results* — specifically, results flowing from an underlying patent-ineligible concept
22 rather than from any specific hardware configuration disclosed by the ’203 patent. This creates
23 no factual dispute as to the routine and conventional nature of the implementing hardware,
24 which the ’203 patent itself reveals. *Second*, Uniloc inexplicably suggests the industry-standard
25 smart battery described in the ’203 patent is not prior art but merely “an illustrative embodiment
26 of the *present invention*” (Dkt. No. 60 at 19 (emphasis in original)). This suggestion is baseless.
27 Uniloc does not and cannot explain how “industry standard” technology could fall outside the
28 realm of “prior art,” or be considered anything other than routine and conventional.

1 Uniloc also insists that claim construction issues preclude judgment on the pleadings,
2 but provides no concrete example of any such issue. The closest it comes is in the vague
3 suggestion that “construction of terms like ‘controller’ and ‘circuit’ may result in requiring
4 more structure than Apple’s analysis permits” (Dkt. No. 60 at 20). But Uniloc never explains
5 how the parties debate the meaning of “controller” or “circuit,” much less how the outcome of
6 any such debate could possibly alter the analysis herein.

7 Finally, in the event that Apple’s motion is granted, Uniloc seeks leave to amend to
8 expand on “details in the patent that support Uniloc’s view that the claims as a whole are not
9 routine and conventional” (Dkt. No. 60 at 20–21). The proposed amendment adds generic
10 allegations to the effect that Uniloc’s claimed invention represented a novel solution to a
11 previously-unsolved industry problem (*see* Dkt. No. 60-4). The issue with Uniloc’s patent,
12 however, is not limited to “routine and conventional” hardware. Rather, the issue illuminated
13 by this motion is that Uniloc’s claimed invention simply recites a patent-ineligible idea as
14 implemented by “industry standard” technology. *See Alice*, 134 S. Ct. at 2359–60 (claims that
15 amount to “nothing significantly more” than an instruction to apply an abstract idea using
16 “some unspecified, generic” technology do not describe a patentable invention). Uniloc’s
17 proposed amendment fails to cure this defect, which appears on the face of the ’203 patent.

18 CONCLUSION

19 For the foregoing reasons, defendant’s motion for judgment on the pleadings is
20 **GRANTED**. Leave to amend is denied as futile. Judgment will follow.

21 Any motion for attorney’s fees shall be postponed until completion of at least the first
22 round of the expedited summary judgment procedure set forth by the case management order in
23 the related patent infringement actions.

24
25 **IT IS SO ORDERED.**

26
27 Dated: May 18, 2018.

28 

WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE