IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

MAGNACROSS LLC,	§	
	§	
Plaintiff,	§	
	§	
v.	§	
	§	Civil Action No. 3:18-cv-02368-M
A.B.P. INTERNATIONAL, INC.,	§	
	§	
Defendant.	§	
	§	

ORDER

In this action, Plaintiff asserts that Defendant infringes United States Patent Number 6,917,304. [ECF No. 1 at 2–5]. Defendant moves to dismiss the Complaint, arguing that the asserted claims of the patent are not directed to patent-eligible subject matter under 35 U.S.C. § 101 and that Plaintiff fails to plead sufficient facts to state a claim under the pleading standards established by *Twombly* and *Iqbal*. [ECF No. 13 at 2–16]. For the following reasons, Defendant's Motion to Dismiss [ECF No. 13] is **DENIED**.

The Court will first address Defendant's invalidity argument. "Whether a claim recites patent eligible subject matter is a question of law which may contain disputes over underlying facts." *Berkheimer v. HP Inc*., 881 F.3d 1360, 1368 (Fed. Cir. 2018). The Federal Circuit has cautioned that dismissal for lack of patentable subject matter at the pleading stage should be "the exception, not the rule." *Ultramercial, Inc. v. Hulu, LLC*, 722 F.3d 1335, 1339 (Fed. Cir. 2013) (explaining that dismissal under Rule 12(b)(6) for lack of patentable subject matter is warranted when "the *only* plausible reading of the patent must be that there is clear and convincing evidence of ineligibility"), *vacated on other grounds by WildTangent, Inc. v. Ultramercial, LLC*, 134 S. Ct. 2870 (2014).

After reviewing the pleadings and the arguments of the parties, the Court concludes that the issue of patent eligibility should not be decided until claim construction has occurred. Therefore, Defendant's Motion, to the extent it argues for dismissal based on invalidity, is denied without prejudice to Defendant arguing after claim construction has occurred that the patent is not directed to patent-eligible subject matter.

The Court next considers Defendant's argument that Plaintiff fails to state an infringement claim. Under *Iqbal*/*Twombly*, a plaintiff is required to "state a claim for relief that is plausible on its face." *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007). This plausibility standard is met when "the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (citing *Twombly*, 550 U.S. at 556)). "Specific facts are not necessary; the statement need only 'give the defendant fair notice of what the . . . claim is and the ground upon which it rests.'" *Erickson v. Pardus*, 551 U.S. 89, 93 (2007) (quoting *Twombly*, 550 U.S. at 555)).

After reviewing the Complaint, the Court concludes that Plaintiff has pleaded its infringement claim sufficiently. The Complaint identifies a specific claim of the patent which Plaintiff asserts that Defendant infringes, specifically identifies an accused product, and describes how the accused product operates. [ECF No. 1 ¶¶ 13–18]. This is sufficient to state a claim for infringement and provide notice to Defendant. *See Disc Disease Sols., Inc. v. VGH Sols., Inc.*, 888 F.3d 1256, 1260 (Fed. Cir. 2018) (holding sufficient a complaint which attached the asserted patents, identified three accused products, and alleged that the accused products met "each and every element of at least one claim").

For the foregoing reasons, Defendant's Motion to Dismiss [ECF No. 13] is **DENIED**.

SO ORDERED.

February 25, 2019.

BARBARA M. G. LYNN
CHIEF JUDGE