

## Judge Biery Dismisses Waco Patent Infringement Case Under Rule 12(b)(6) Based on Implausible Allegations

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On March 17, 2023, Judge Fred Biery granted Google LLC's (Google) motion to dismiss Plaintiff ALD Social, LLC's (ALD Social) complaint with prejudice for failure to state a claim pursuant to Rule 12(b)(6).

ALD Social filed its complaint in Waco against Google for patent infringement of two patents related to a system that detects crowd-safety risks, such as mobs and riots, and alerts emergency personnel of that risk. ALD Social alleged that Google's "emergency alert platform Crisis Response" and "Public Alerts platform" (accused products) infringed the asserted patents. The case was assigned to Judge Biery in San Antonio.

Google moved to dismiss ALD Social's complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, arguing that the complaint failed to plausibly state a claim for patent infringement and that any amendment to the complaint would be futile because the asserted patents concern risks from crowds, not risks to crowds, and the accused products do not determine anything related to a crowd.

Judge Biery agreed with Google. Judge Biery determined that "neither the provisional nor specifications of the Asserted Patents mention any risk other than those posed by large crowds of people. Indeed, the Asserted Patents are about detecting risks posed by crowds, not risks posed to crowds. . . . Yet, Plaintiff does not allege the Accused Products predict risks from crowds, let alone predict mobs or riots."

Judge Biery went on to note that "[e]ven presuming a 'crowd risk' could plausibly be read more broadly to mean a risk where there is any involvement of a crowd, the claims require 'determining a crowd risk' or a 'crowd risk determinant.' Plaintiff does not allege in its complaint or opposition that the Accused Products make any determination about whether a crowd 'may be affected'" or "make any determination about the presence or absence of a crowd at all." And Judge Biery concluded that the claim limitations could not be plausibly construed to encompass ALD Social's allegations.

Judge Biery further denied ALD Social's request to file an amended complaint. While noting that ALD Social failed to provide a proposed amended complaint and explain how a potential amendment would cure the defects in the complaint, Judge Biery ultimately determined that dismissal with prejudice was appropriate because any amendment would be futile, as ALD Social's underlying infringement allegations were implausible.

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## Related Locations

Charlotte

Houston

## Related Topics

Patent Infringement

## Related Capabilities

Intellectual Property

Patent Litigation

## Related Regions

North America

## Related Professionals

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