

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

HEIDI L. KEEFE (178960)
hkeefe@cooley.com
MARK R. WEINSTEIN (193043)
mweinstein@cooley.com
PHILLIP E. MORTON (pro hac vice)
pmorton@cooley.com
COOLEY LLP
3175 Hanover Street
Palo Alto, CA 94304-1130
Telephone: (650) 843-5000
Facsimile: (650) 849-7400

MICHAEL G. RHODES (116127)
(rhodesmg@cooley.com)
COOLEY LLP
101 California Street, 5th Floor
San Francisco, CA 94111
Telephone: (415) 693-2000
Facsimile: (415) 693-2222

Attorneys for Defendant Facebook, Inc.

BRADLEY W. CALDWELL (pro hac vice)
bcaldwell@caldwelcc.com
JASON D. CASSADY (pro hac vice)
jcassady@caldwelcc.com
JOHN AUSTIN CURRY (pro hac vice)
acurry@caldwelcc.com
WARREN J. MCCARTY, III (pro hac vice)
wmccarty@caldwelcc.com
CALDWELL CASSADY & CURRY
2101 Cedar Springs Road, Suite 1000
Dallas, Texas 75201
Telephone: (214) 888-4848
Facsimile: (214) 888-4849

Christopher D. Banys (SBN 230038)
Jennifer L. Gilbert (SBN 255820)
cdb@banyspc.com
jlg@banyspc.com
BANYS, P.C.
1032 Elwell Court, Suite 100
Palo Alto, CA 94303
Tel: (650) 308-8505
Fax: (650) 353-2202

Attorneys for Plaintiff Windy City
Innovations, LLC

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

WINDY CITY INNOVATIONS, LLC

Plaintiff,

v.

FACEBOOK, INC.,

Defendant.

Case No. 4:16-cv-01730-YGR

**JOINT CASE MANAGEMENT
CONFERENCE STATEMENT**

Date: October 1, 2018

Time: 2:00 p.m.

Dept.: Courtroom 1

Judge: Honorable Yvonne Gonzalez Rogers

Date Filed: September 24, 2018

Trial Date: June 10, 2019

Pursuant to Federal Rule of Civil Procedure 26(f), Civil Local Rule 16-9(a), Patent
Local Rule 2-1, the Standing Order for All Judges of the Northern District of California –
Contents of Joint Case Management Statement, and the Court’s July 9, 2018 Case Management
and Pretrial Order (Dkt. 117) the parties to the above-titled action jointly submit this Case

1 Management Statement and Proposed Order.

2 As described below, the parties are proceeding with discovery and do not anticipate
3 any disputes requiring the Court's attention. As such, the parties do not believe that the case
4 management conference is necessary, but should the Court wish to proceed with this hearing,
5 the Parties are happy to appear before the Court at the designated time.

6 **1. Jurisdiction and Service.**

7 The parties have no update and refer to their previously filed statement. (Dkt. 95.)

8 **2. Procedural History and Facts.**

9 The parties refer to their previously filed statement for an overview of this case's prior
10 history and relevant facts. (Dkt. 95.)

11 (a) Case Activity Since the Last Case Management Statement.

12 The parties last filed a case management statement on February 5, 2018. (Dkt. 95.) The
13 Court held a case management conference on February 23, 2018. (Dkt. 100.) Following that,
14 the parties began taking discovery and briefed claim construction issues. (Dkts. 107, 108, 112.)
15 The Court held a case status telephone conference on July 6, 2018, at which the Court set the
16 remaining schedule for the case, including a trial date of June 10, 2019. (Dkts. 116, 117.)
17 During the telephone conference, the Court informed the parties that it will address claim
18 construction issues at the same time it addresses dispositive motions under the updated
19 schedule. Since that time the parties have engaged in substantial discovery of all types and
20 mediated the case on September 10, 2018. The parties have another mediation scheduled on
21 October 9, 2018.

22 **3. Legal Issues.**

23 The parties have no update and refer to their previously filed statement. (Dkt. 95.)

24 **4. Motions and/or Pending Matters.**

25 (a) **Motions**

26 There are no pending motions at this time.
27
28

1 **(b) Anticipated Motions**

2 The parties do not presently anticipate any motions beyond dispositive motions and
3 *Daubert* challenges, as contemplated by the Court's current schedule.

4 **(c) Pending Matters**

5 Facebook's Appeal and Windy City's Cross Appeal to the U.S. Court of Appeals for
6 the Federal Circuit appealing, among other issues, the PTAB's determination that the nine
7 remaining asserted claims were not unpatentable remain pending before the Federal Circuit.
8 Fed. Cir. Appeal Nos. 18-1400, -1401, -1402, -1403, -1537, -1540, and -1541. All of the
9 parties' appeals have been consolidated under Case No. 18-1400.

10 Facebook filed its Opening Brief on May 21, 2018. Windy City filed its Response Brief
11 on August 31, 2018. The current deadline to file Facebook's Reply Brief is October 10, 2018.

12 **5. Amendment of Pleadings, Addition of Parties, Etc.**

13 None at this time.

14 **6. Evidence Preservation.**

15 The parties have reviewed the Guidelines Relating to the Discovery of Electronically
16 Stored Information ("ESI"). Additionally, the parties have discussed with their counsel and
17 met and conferred at their F.R.C.P. 26(f) conference regarding reasonable and proportionate
18 steps to preserve evidence relevant to the issues reasonably evident in this action. Each party
19 has implemented a litigation hold with respect to ESI and hardcopy documents and media that
20 is believed to be reasonably related to the claims and defenses in this action.

21 **7. Initial Disclosures.**

22 The parties served initial disclosures pursuant to Federal Rule of Civil Procedure
23 26(a)(1) on July 18, 2016. Facebook amended its initial disclosures on August 31, 2018.

24 **8. Discovery.**

25 **(a) Discovery to Date**

26 The parties have engaged in substantial discovery, including document production,
27 interrogatories, ESI discovery, and depositions.

28

1 **(b) Scope of Anticipated Discovery**

2 The parties anticipate that the scope of discovery will encompass the factual and legal
3 issues identified in Sections 3 above, and the requested relief discussed in Section 11 below,
4 including all related, ancillary, and subsidiary factual and legal issues and matters.

5 **(c) Report on Stipulated E-Discovery Order.**

6 The parties have reviewed the Northern District of California's Model Stipulation and
7 Order Re: Discovery of Electronically Stored Information For Patent Litigation and the Court
8 entered the parties' stipulated ESI Order on August 16, 2016. *See* Dkt. 70.

9 **(d) Discovery Plan/Changes to Discovery Limitations**

10 The Court entered a case scheduling order on August 2, 2016 (Dkt. 68) setting forth
11 discovery limitations in this matter. The parties ask that the Court carry forward the discovery
12 limitations as set forth in § I of that Order.

13 **9. Class Actions.**

14 Not applicable.

15 **10. Related Pending Cases.**

16 None.

17 **11. Relief.**

18 Windy City's Statement:

19 Windy City seeks judgment that Defendants have infringed and continue to infringe
20 the patents in-suit. Windy City seeks damages under 35 U.S.C. § 284, attorney fees under 35
21 U.S.C. § 285, and such relief at law and in equity as the Court may deem just and proper.

22 Defendants' Statement:

23 Facebook seeks a judgment that Facebook does not infringe any of the asserted claims
24 of the patents-in-suit and that each of the asserted claims is invalid, patent-ineligible, and/or
25 unenforceable. Facebook may also seek attorney's fees under 35 U.S.C. 285, and such relief
26 at law and in equity as the Court may deem just and proper.

27

28

1 **12. Settlement and ADR.**

2 The parties engaged in mediation on December 14, 2016 with the Hon. Edward Infante
3 (Ret.) at JAMS in San Francisco. No resolution was reached at that time. The parties mediated
4 again before the Hon. James Ware on September 10, 2018. No resolution was reached, but the
5 parties have another mediation scheduled with Judge Ware on October 9, 2018.

6 **13. Consent to Magistrate Judge.**

7 No party consented to proceeding before a magistrate judge.

8 **14. Other References.**

9 The parties do not believe that this case is suitable for reference to binding arbitration,
10 a special master, or the Judicial Panel on Multidistrict Litigation.

11 **15. Narrowing of Issues.**

12 The parties anticipate that the issues in the case will be further narrowed as fact and
13 expert discovery progress.

14 **16. Expedited Schedule.**

15 The parties do not propose that this case proceed on an expedited schedule.

16 **17. Scheduling.**

17 The parties are not seeking any modification to the deadlines previously set by the
18 Court at Dkt. 117.

19 **18. Trial.**

20 A jury trial is set for June 10, 2019. The parties estimate that the expected length of
21 trial is five days.

22 **19. Disclosure of Non-party Interested Entities or Persons.**

23 The parties have filed Certifications of Interested Persons or Entities pursuant to Civil
24 Local Rule 3-16.

25 Windy City's Statement:

26 Windy City has filed its certification of interested entities with the Court. There are no
27 other non-parties interested entities or persons.
28

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.