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11 UNITED STATES DISTRICT COURT  
12 NORTHERN DISTRICT OF CALIFORNIA  
13 SAN FRANCISCO DIVISION

15 TWITTER, INC.,  
16 Plaintiff,  
17 v.  
18 VOIP-PAL.COM, INC.,  
19 Defendant.  
20

Case No. 21-cv-09773-JD

**PLAINTIFF TWITTER, INC.’S MOTION  
FOR LEAVE TO FILE A FIRST  
AMENDED COMPLAINT**

Date: Thursday, October 20, 2022  
Time: 10:00am PDT  
Location: Courtroom 11, 19<sup>th</sup> Floor  
Judge: James Donato

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1 **NOTICE OF MOTION AND MOTION**

2 Please take notice that on Thursday, October 20, 2022, or as soon thereafter as it may be  
3 heard by the Court, located at Phillip Burton Federal Building and United States Courthouse, 450  
4 Golden Gate Avenue, Courtroom 11, 19<sup>th</sup> Floor, San Francisco, California 94102, before the  
5 Honorable Judge James Donato, Plaintiff Twitter, Inc. (“Twitter”) will and hereby does move this  
6 Court pursuant to Fed. R. Civ. P. 15 for leave to file a First Amended Complaint. This Motion is  
7 based on this Notice of Motion, the following Memorandum of Points and Authorities, the  
8 attached Declaration of Gene W. Lee, and accompanying exhibits.

9 **RELIEF REQUESTED**

10 Twitter respectfully requests this Court grant Twitter leave to file a First Amended  
11 Complaint and enter the First Amended Complaint attached hereto as Exhibit A.

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**MEMORANDUM OF POINTS AND AUTHORITIES****I. INTRODUCTION**

The present Motion seeks leave of Court for Plaintiff Twitter to file a First Amended Complaint. *See* Declaration of Gene W. Lee (“Lee Decl.”). Twitter’s original Complaint contains claims for declaratory judgment that Twitter does not infringe VoIP-Pal.com, Inc.’s U.S. Patents 8,630,234 (“the ’234 patent”) and 10,880,721 (“the ’721 patent”). The proposed First Amended Complaint would add claims for declaratory judgment that the ’234 patent and the ’721 patent are invalid. The proposed First Amended Complaint is attached as Exhibit A, and a redline showing the proposed amendments from Twitter’s original Complaint is attached as Exhibit B. Twitter seeks leave to amend in good faith and in the early stages of this case. There is no undue delay, and the First Amended Complaint would not prejudice Defendant. Accordingly, Twitter respectfully requests this Court grant Twitter leave to file its First Amended Complaint.

**II. STATEMENT OF FACTS**

The present action is part of a long-running and multi-faceted litigation campaign between Defendant VoIP-Pal, Twitter, and many other companies involving VoIP-Pal’s patents. The pertinent background is described in Twitter’s original Complaint (Dkt. No. 1) and Twitter’s Opposition To VoIP-Pal’s Motion To Dismiss (Dkt. No. 30).

On December 17, 2021, Twitter filed the original Complaint in this action. Dkt. No. 1. The original Complaint has claims for declaratory judgment that Twitter does not infringe the ’234 and ’721 patents. *Id.* This action was reassigned to this Court on January 20, 2022.

On February 11, 2022, Defendant filed a motion to dismiss Twitter’s Complaint for lack of subject matter and personal jurisdiction and for improper venue. Dkt. No. 25. This Court denied Defendant’s motion to dismiss on July 22, 2022, and directed the parties to file a joint proposed schedule. Dkt. No. 38 at 1.

On August 5, 2022, the parties submitted a joint proposed schedule that stated Twitter’s intention to amend the Complaint to add claims that the ’234 and ’721 patents are invalid. Dkt. No. 39 at 1-2. On the same day, Defendant filed an Answer to Twitter’s Complaint. Dkt. No. 40.

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