

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

ALMONDNET, INC. and INTENT IQ, LLC, )  
)  
Plaintiffs, )  
)  
v. ) C.A. No. 23-1373 (MN)  
)  
LINKEDIN, CORPORATION, )  
)  
Defendant. )

**OPENING BRIEF IN SUPPORT OF DEFENDANT’S MOTION TO DISMISS**

MORRIS, NICHOLS, ARSHT & TUNNELL LLP  
Jack B. Blumenfeld (#1014)  
Rodger D. Smith II (#3778)  
1201 North Market Street  
P.O. Box 1347  
Wilmington, DE 19801  
(302) 658-9200  
jblumenfeld@morrisnichols.com  
rsmith@morrisnichols.com

*Attorneys for Defendant*

OF COUNSEL:

David J. Silbert  
Michelle Ybarra  
Erin E. Meyer  
Theresa Dawson  
Amos J. B. Espeland  
Sydney Joi Robinson  
KEKER, VAN NEST & PETERS LLP  
633 Battery Street  
San Francisco, CA 94111-1809  
(415) 391-5400

February 12, 2024

## TABLE OF CONTENTS

I.	INTRODUCTION .....	1
II.	NATURE AND STAGE OF PROCEEDINGS .....	2
III.	SUMMARY OF ARGUMENT .....	2
IV.	STATEMENT OF FACTS .....	4
V.	LEGAL STANDARD.....	5
VI.	ARGUMENT .....	6
A.	AlmondNet’s induced, contributory, and willful infringement claims should be dismissed for failure to plead LinkedIn’s knowledge of or willful blindness to the Relevant Patents.....	6
1.	The Complaint does not adequately allege that LinkedIn had knowledge of the Relevant Patents.....	6
2.	AlmondNet has not plausibly alleged that LinkedIn was willfully blind to the Relevant Patents.....	9
B.	AlmondNet’s induced and contributory infringement claims should be dismissed because AlmondNet fails to allege direct infringement by a third party.....	10
C.	AlmondNet’s induced infringement claims should be dismissed because AlmondNet fails to plead that LinkedIn acted with specific intent to induce infringement.....	12
VII.	CONCLUSION.....	15

**TABLE OF AUTHORITIES**

**Cases**

*AgroFresh Inc. v. Essentiv LLC*,  
C.A. No. 16-662 (MN), 2019 WL 350620 (D. Del. Jan. 29, 2019)..... 5

*AgroFresh Inc. v. Essentiv LLC*,  
C.A. No. 16-662-MN-SRF, 2018 WL 6974947 (D. Del. Dec. 27, 2018) ..... 3

*Alarm.com, Inc. v. SecureNet Techs. LLC*,  
345 F. Supp. 3d 544 (D. Del. 2018)..... 8

*Align Tech., Inc. v. 3Shape A/S*,  
339 F. Supp. 3d 435 (D. Del. 2018)..... 7

*APS Tech., Inc. v. Vertex Downhole, Inc.*,  
C.A. No. 19-1166 (MN), 2020 WL 4346700 (D. Del. 2020) ..... 6

*Ashcroft v. Iqbal*,  
556 U.S. 662 (2009)..... 1

*Bayer Healthcare LLC v. Baxalta Inc.*,  
989 F.3d 964 (Fed. Cir. 2021)..... 7

*Bench Walk Lighting LLC v. LG Innotek Co.*,  
530 F. Supp. 3d 468 (D. Del. 2021)..... 4

*Commil USA, LLC v. Cisco Sys., Inc.*,  
575 U.S. 632 (2015)..... 7

*Dodots Licensing Sols. LLC v. Lenovo Holding Co., Inc.*,  
C.A. No. 18-098 (MN), 2018 WL 6629709 (D. Del. 2018) ..... 7

*Global-Tech Appliances, Inc. v. SEB S.A.*,  
563 U.S. 754, 760 (2011)..... 5

*H. Lundbeck A/S v. Lupin Ltd.*,  
87 F.4th 1361 (Fed. Cir. 2023) ..... 4

*Helios Streaming, LLC v. Vudu, Inc.*,  
C.A. No. 19-1792-CFC-SRF, 2021 WL 254069 (D. Del. Jan. 26, 2021)..... 10

*Intuitive Surgical, Inc. v. Auris Health, Inc.*,  
549 F. Supp. 3d 362 (D. Del. 2021)..... 7

*Limelight Networks, Inc. v. Akamai Techs., Inc.*,  
572 U.S. 915 (2014)..... 11

*MONEC Holding AG v. Motorola Mobility, Inc.*,  
897 F. Supp. 2d 225 (D. Del. 2012)..... 7

*Nalco Co. v. Chem-Mod, LLC*,  
883 F.3d 1337 (Fed. Cir. 2018)..... 3

*Novel Drug Sols., LLC v. Imprimis Pharms., Inc.*,  
C.A. No. 18-539 (MN), 2018 WL 4795627 (D. Del. Sept. 26, 2018)..... 5

*Pragmatus Telecom, LLC v. Ford Motor Co.*,  
C.A. No. 12-92-RGA, 2012 WL 2700495 (D. Del. July 5, 2012)..... 3

*Robocast, Inc. v. Netflix, Inc.*,  
640 F. Supp. 3d 365 (D. Del. 2022)..... 9

*SoftView LLC v. Apple Inc.*,  
C.A. No. 10-389-LPS, 2012 WL 3061027 (D. Del. July 26, 2012) ..... 8

*Software Rsch., Inc. v. Dynatrace LLC*,  
316 F. Supp. 3d 1112 (N.D. Cal. 2018) ..... 9

*Sonos, Inc. v. Google LLC*,  
591 F. Supp. 3d 638 (N.D. Cal. 2022) ..... 9

*Telecomm Innovations, LLC v. Ricoh Co., Ltd.*,  
966 F. Supp. 2d 390 (D. Del. 2013)..... 11

*Varian Med. Sys., Inc. v. Elekta AB*,  
C.A. No. 15-871-LPS, 2016 WL 3748772 (D. Del. July 12, 2016) ..... 3

*Xiros, Ltd. v. Depuy Synthes Sales, Inc.*,  
2022 WL 3592449 (W.D. Tex. Aug. 22, 2022)..... 8

*ZitoVault, LLC v. Int’l Bus. Machines Corp.*,  
2018 WL 2971131 (N.D. Tex. Mar. 29, 2018)..... 8

**Statutes**

35 U.S.C. § 271..... 5

35 U.S.C. § 284..... 15

Fed. R. Civ. P. 12(b)(6)..... 1

## I. INTRODUCTION

Plaintiffs have recently sued a number of technology companies for infringement of several patents related to certain internet advertising methods. LinkedIn is their latest target. Plaintiffs attempt to embellish their instant Complaint—which advances claims of direct infringement of nine asserted patents—with boilerplate claims of induced, contributory, and willful infringement for four of the asserted patents, in a superficial attempt to inflate damages. But Plaintiffs’ theory that LinkedIn had the knowledge of Plaintiffs’ patents required to support Plaintiffs’ claims of induced, contributory, and willful infringement is based entirely on allegations of *Microsoft’s* knowledge of a subset of those patents. Microsoft is LinkedIn’s parent company, but it is well-established that a parent’s knowledge cannot, without more, be imputed to a subsidiary. LinkedIn now moves to dismiss Plaintiffs’ add-on claims for induced, contributory, and willful infringement under Fed. R. Civ. P. 12(b)(6). The scant factual allegations and conclusory recitation of elements in Plaintiffs’ Complaint do not permit this Court to “draw the reasonable inference” that LinkedIn actively induced or contributed to others’ direct infringement, or that LinkedIn willfully infringed any of the asserted patents. *See Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). In particular, the Complaint fails to allege facts sufficient to infer that LinkedIn had knowledge of the four patents for which Plaintiffs allege induced, contributory, and willful infringement; that any third party directly infringed the patents-in-suit; or that LinkedIn took active steps to encourage, recommend, or promote infringement. Accordingly, LinkedIn respectfully requests that the Court dismiss Plaintiffs’ claims for induced, contributory, and willful infringement of the ’139, ’146, ’398, and ’878 patents.

# 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.