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14 Innovations, LLC

15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA
17 OAKLAND DIVISION

18 WINDY CITY INNOVATIONS, LLC

19 Plaintiff,

20 v.

21 FACEBOOK, INC.,

22 Defendant.

Case Nos. 4:16-cv-01730-YGR

**PLAINTIFF WINDY CITY
INNOVATIONS, LLC'S PATENT L.R.
3-1 AND 3-2 DISCLOSURES**

23 Under Patent L.R. 3-1 and pursuant to the Case Management Order signed by the
24 Court on August 2, 2016 (*see* Dkt. No. 68), Plaintiff Windy City Innovations LLC
25 ("Plaintiff" or "Windy City") hereby makes the following disclosure of asserted claims and
26 infringement contentions with respect to U.S. Patent No. 8,407,356 (the "'356 Patent"), U.S.
27 Patent No. 8,458,245 (the "'245 Patent"), U.S. Patent No. 8,473,552 (the "'552 Patent"), and
28

1 U.S. Patent No. 8,694,657 (the “’697 Patent”) (collectively, the “Patents-in-Suit”), to
2 Defendant Facebook Incorporated (“Facebook”).

3 Plaintiff’s investigation is ongoing, and discovery is in its early stages. Accordingly,
4 these disclosures are based on information available to Plaintiff at this time. Plaintiff reserves
5 the right to supplement this disclosure after further discovery from Facebook, particularly
6 documents and other discovery regarding Facebook’s Accused Instrumentalities as disclosed
7 below. Plaintiff also reserves the right to accuse different instrumentalities or find alternative
8 literal and/or equivalent infringing elements in Facebook’s Accused Instrumentalities as
9 disclosed below.

10 Pursuant to Patent L.R. 2-2 and the Protective Order entered in this case on August 2,
11 2016 (*see* Dkt. No. 67), all document production accompanying Plaintiff’s Disclosure of
12 Asserted Claims and Infringement Contentions shall be deemed CONFIDENTIAL.
13 Plaintiffs’ P.R. 3-1(c) charts contain reference and citation to Facebook’s source code, and as
14 such, should be treated as HIGHLY CONFIDENTIAL – SOURCE CODE.¹

15 **I. PLAINTIFF’S RULE 3-1 DISCLOSURES**

16 **A. ASSERTED CLAIMS**

17 Pursuant to Patent L.R. 3-1(a), Plaintiff asserts that Facebook has infringed and
18 continues to infringe at least the following claims of the ’356 Patent: 1, 2, 7, 14, 16, 19, 20,
19 26, 33, and 35.

20 Plaintiff also asserts that Facebook has infringed and continues to infringe at least the
21 following claims of the ’245 Patent: 19, 22, 23,24, and 25.

22
23
24 ¹ In many portions of Plaintiff’s 3-1 and 3-2 disclosures, Plaintiff has gone beyond the disclosure
25 requirements required by P.R. 3-1 and 3-2. These additional disclosures and citations are made
26 for the benefit of Defendant. Plaintiff in no way confines its contentions to the specific citations
27 of evidence and explicitly reserves the right to rely on additional or different evidence as the case
28 moves forward through fact discovery, expert discovery, and trial. Furthermore, any omission of
any other specific citation to the Accused Instrumentalities or documents related thereto does not
constitute a waiver of Plaintiff’s right to raise any issues related to the Accused Instrumentalities
or other documents related thereto at a later date.

1 Plaintiff also asserts that Facebook has infringed and continues to infringe at least the
2 following claims of the '552 Patent: 10, 14, 15, 16, 17, 59, and 64.

3 Plaintiff also asserts that Facebook has infringed and continues to infringe at least the
4 following claims of the '697 Patent: 189, 203, 209, 215, 221, 465, 477, 482, 487, and 492.

5 Plaintiff reserves the right to seek leave of the Court to add, delete, substitute, or
6 otherwise amend this list of asserted claims should further discovery, the Court's claim
7 construction, or other circumstances so merit. Specifically, Plaintiff reserves the right to seek
8 leave of the Court to add, delete, substitute, or otherwise amend this list of asserted claims in
9 light of the forthcoming Patent Trial and Appeals Board decisions regarding institution of
10 *Inter Partes* Review petition numbers: IPR2016-01137; IPR2016-01138; IPR2016-01141;
11 IPR2016-01146; IPR2016-01147; IPR2016-01155; IPR2016-01156; IPR2016-01157;
12 IPR2016-01158; IPR2016-01159; and IPR2016-01067.

13 B. ACCUSED PRODUCTS

14 Pursuant to Patent L.R. 3-1(b), Plaintiff asserts that the Asserted Claims of the
15 Patents-In-Suit are infringed by Facebook by at least the following (the "Accused
16 Instrumentalities"): (i) www.facebook.com: website application for browser based clients
17 (both client-facing and
18 server-side components); (ii) www.messenger.com: website application for browser based
19 clients (both client-facing and server-side components); (iii) Messenger mobile app (client
20 and server-side components), including Messenger app for iOS, Messenger app for Android,
21 Messenger app for Blackberry OS, Messenger app for Windows Phone 8, and Messenger app
22 for Windows 10.

23 Facebook's Accused Instrumentalities should also be understood to include supported
24 instrumentalities into which the Accused Instrumentalities are integrated or included when
25 they are configured and operating in a system as specified by Facebook, including
26 Facebook's master discs and other media that store, cache, or distribute communications
27 using Facebook protocols, other server-side components and network devices employed by
28

1 Dated: October 19, 2016

Respectfully submitted,
CALDWELL CASSADY & CURRY

3
4 /s/ Warren J. McCarty

Warren J. McCarty

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19 Innovations, LLC

20 **CERTIFICATE OF SERVICE**

21 I, hereby certify on this 19th day of October, 2016, that a copy of the foregoing was
22 served upon counsel of record via electronic mail.

24 Dated: October 19, 2016

/s/ Warren J. McCarty, III

Warren J. McCarty, III (pro hac vice)

26 Attorney for Plaintiff
27 Windy City Innovations, LLC

28 PATENT L.R. 3-1 AND 3-2
DISCLOSURES

10.

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CONFIDENTIAL