

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

WINDY CITY INNOVATIONS, LLC,

Plaintiff,

v.

FACEBOOK, INC.,

Defendant.

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Civil Action No. 15-cv-102

JURY TRIAL DEMANDED

PLAINTIFF'S ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Windy City Innovations, LLC (“Windy City”) files this Original Complaint against Defendant Facebook, Inc. (“Facebook”) for patent infringement under 35 U.S.C. § 271 and alleges, based on its own personal knowledge with respect to its own actions and based upon information and belief with respect to all others’ actions, as follows:

THE PARTIES

1. Plaintiff Windy City is a limited liability company organized and existing under the laws of the State of Delaware, and maintains its principal place of business at 195 North Harbor Drive, Suite 5403, Chicago, Illinois 60601.

2. Defendant Facebook, Inc. is a Delaware corporation with its headquarters at 1601 Willow Road, Menlo Park, California 94025. Facebook is registered to conduct business in the State of North Carolina. Facebook has designated Corporation Service Company, 327 Hillsborough St., Raleigh, North Carolina 27603 as its agent for service of process.

JURISDICTION AND VENUE

3. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 1 *et seq.* This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

4. This Court has personal jurisdiction over Facebook because, among other things, Facebook has committed acts of patent infringement and/or has induced and contributed to acts of patent infringement by others in North Carolina, including in this district, and has engaged in continuous and systematic activities in North Carolina, including the operation of its 160-acre data center in Rutherford County located at 284 Social Circle, Forest City, North Carolina 28043.

5. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b), 1391(c) and 1400(b) because, among other things, Facebook is subject to personal jurisdiction in this district, Facebook has regularly conducted business in this judicial district, Facebook has a regularly established place of business in this judicial district in Rutherford County at 284 Social Circle, Forest City, North Carolina 28043, and certain of the acts complained of herein occurred in this judicial district.

PATENTS-IN-SUIT

6. On March 26, 2013, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 8,407,356 (the “’356 patent”) entitled “Real Time Communications System.” A true and correct copy of the ’356 patent is attached hereto as Exhibit A.

7. On June 4, 2013, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 8,458,245 (the “’245 patent”) entitled “Real Time

Communications System.” A true and correct copy of the ’245 patent is attached hereto as Exhibit B.

8. On June 25, 2013, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 8,473,552 (the “’552 patent”) entitled “Communications System.” A true and correct copy of the ’552 patent is attached hereto as Exhibit C.

9. On April 8, 2014, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 8,694,657 (the “’657 patent”) entitled “Real Time Communications System.” A true and correct copy of the ’657 patent is attached hereto as Exhibit D.

10. By assignment, Windy City owns all rights, title, and interest in the ’356, ’245, ’552, and ’657 patents (the “patents-in-suit”) and possesses all rights of recovery.

FACTUAL ALLEGATIONS

11. The patents-in-suit generally cover a real time communications system for managing and facilitating communication of digital data, including different media types across networks. The patents-in-suit also generally cover a computer network (i.e., a server network) that arbitrates permissions and distribution of multimedia information messages utilizing, for example, an application program interface (“API”).

12. In or around the year 1996, Daniel Marks, the inventor of the patents-in-suit, was hired by executives at American Information Systems and asked to develop a communications system for employees at American Information Systems to more easily communicate and share various types of information over the Internet.

13. Daniel Marks thereafter designed and developed a computerized communications system with software that, *inter alia*, creates a virtual connection among

individual computers via the Internet, permits access to the connection in accordance with predefined rules (e.g., user identity), arbitrates communications in accordance with predefined rules, and provides an application programming interface multiplexing and demultiplexing communications by message type.

14. Daniel Marks is the named inventor on six issued patents claiming various aspects of his inventions. For example, some embodiments feature a controller computer that arbitrates communications between participator computers, using predefined rules and parameter, such as user identities and censorship settings. As another example, some embodiments feature a controller computer with an application programming interface that multiplexes and demultiplexes messages and creates a virtual connection between, for example, channels, private messages, and multimedia objects between the controller computer and participator computers. As yet another example, some embodiments feature a controller computer that facilitates communication of digital data between participator computers by using, for example, authenticated user identities and pointer-triggered messages to fetch digital communication data.

15. In addition to his involvement with Windy City, Daniel Marks currently serves as an Associate Research Professor in the Department of Electrical Engineering and Computer Engineering at Duke University in Durham, North Carolina.

16. Facebook owns and operates the widely used website located on the World Wide Web at <http://www.facebook.com> (“Facebook.com”). Facebook.com offers functionality that enables Facebook users to create and virtually connect to a network of contacts, share multimedia files with all or some of those contacts, establish private groups, customize privacy settings, and communicate in real time via Facebook’s chat and messages

functionalities. Facebook.com's private group, chat, and messages features are real time communications systems for communicating different media types over the Internet, and also arbitrate permissions and distribution of multimedia information messages utilizing, for example, an application program interface (e.g., Facebook's internal APIs, Facebook's APIs for developers). "Facebook.com" refers to the Facebook.com website, client software (including, e.g., plug-ins, third-party applications, or helper applications), Facebook's internal and developer APIs, servers and computers that are used to support the described functionalities, including facilitating communications and virtual connections between users of Facebook.com, and includes any improvements, modifications, enhancements, fixes, updates, upgrades and future versions through trial.

17. Facebook uses its website to obtain advertising revenue by placing advertisements on its web pages.

18. Facebook offers mobile apps, including the Facebook app and the Facebook Messenger app ("Facebook apps"). Facebook apps offer functionality that enables Facebook users to create and virtually connect to a network of contacts, share multimedia files with all or some of those contacts, establish private chats, customize privacy settings, and communicate in real time. The Facebook apps offer the functionality to communicate different media types over the Internet, and also arbitrate permissions and distribution of multimedia information messages utilizing, for example, an application program interface (e.g., Facebook's internal APIs, Facebook's APIs for developers). "Facebook apps" refers to the Facebook app, the Facebook Messenger app, client software (including, e.g., plug-ins, third-party applications, or helper applications), Facebook's internal and developer APIs, servers and computers that are used to support the described functionalities, including

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