

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

YOUTOO TECHNOLOGIES, INC.,

Plaintiff,

v.

TWITTER, INC.

Defendant.

Case No. 3:16-CV-00764-N

Honorable David C. Godbey

JURY TRIAL DEMANDED

**PLAINTIFF YOUTOO TECHNOLOGIES INC.'S MO62
PRELIMINARY INFRINGEMENT CONTENTIONS**

Pursuant to Miscellaneous Order No. 62 ("MO62") ¶3-1(a), Plaintiff Youtoo Technologies, Inc. ("Youtoo") sets forth the following preliminary contentions with respect to infringement of the patents in suit, U.S. Patent No. 8,464,304 ("the '304 patent"), entitled "Content Creation and Distribution System," U.S. Patent No. 8,601,506 ("the '506 patent"), entitled "Content Creation and Distribution System," and U.S. Patent No. 9,083,997 ("the '997 patent"), entitled "Recording and Publishing Content on Social Media Websites," (collectively "Patents-in-Suit"), by Defendant Twitter, Inc. ("Twitter").

These disclosures are based upon information publicly available to Youtoo. Thus, Youtoo's investigation of the nature and extent of Twitter's infringement is necessarily ongoing, and Youtoo reserves the right to supplement or modify these disclosures as new information becomes available through discovery or other

TWITTER, INC.
EXHIBIT 1015

investigation as provided in the Federal Rules of Civil Procedure and the Local Rules of this Court.

1. Twitter has infringed at least claims 1, 4, 5, 8, 9, 11, 12, 13, 14, 15, 16, 17, 19, 20, 21, 22, 23, 24, 25, 26, 28, 29 and 30 of the '304 patent under 35 U.S.C. § 271(a) and (b). Twitter has infringed at least claims 1, 4, 5, 6, 7, 8, 11, 13, 14, 15, 23, 24, 25, 26, 29 and 30 of the '506 patent under 35 U.S.C. § 271(a) and (b). Twitter has infringed at least claims 20, 21, 22, 24, 31, and 32 of the '997 patent under 35 U.S.C. § 271(a) and (b).

2. As presently advised, based upon publicly available information and Youtoo's own investigation, the Twitter Accused Instrumentalities include Vine and Periscope. Additionally, based on publicly available information, Youtoo asserts that the Twitter app may also infringe one or more of the Patents-in-Suit. See, for example, <https://support.twitter.com/articles/20172128#>. At the present time, however, Youtoo does not have sufficient information to determine whether the Twitter app's video recording and sharing functionality uses Vine technology or Periscope technology and, as such, Youtoo has not formally accused the Twitter app at this time. Nonetheless, Youtoo intends to seek information regarding the Twitter app during discovery and may seek to amend its preliminary contentions to formally accuse the Twitter app, if appropriate.

Twitter has infringed and is infringing, literally and under the doctrine of equivalents, at least claims 1, 4, 5, 8, 9, 11, 12, 13, 14, 15, 16, 22, 24, 25, 26, 28, 29 and 30 of

the '304 patent under 35 U.S.C. § 271(a) through its operation of its video creation and distribution application Vine and under 35 U.S.C. § 271(b) through its inducement of others to operate and use Vine. Twitter has also infringed and is infringing, literally and under the doctrine of equivalents, claims 1, 4, 5, 8, 9, 11, 12, 13, 14, 15, 16, 17, 19, 20, 21, 22, 23, 24, 25, 26, 28, 29 and 30 of the '304 patent under 35 U.S.C. § 271(a) through its operation of its video creation and distribution application Periscope and under 35 U.S.C. § 271(b) through its inducement of others to operate and use Periscope.

Twitter has infringed and is infringing, literally and under the doctrine of equivalents, at least claims 1, 4, 5, 6, 7, 8, 11, 13, 14, 15, 23, 24, 25, 26, 29 and 30 of the '506 patent under 35 U.S.C. § 271(a) through its operation of its video creation and distribution application Vine and under 35 U.S.C. § 271(b) through its inducement of others to operate and use Vine.

Twitter has infringed and is infringing, literally and under the doctrine of equivalents, at least claims 20, 21, 22, 24, 31, and 32 of the '997 patent under 35 U.S.C. § 271(a) through its operation of its video creation and distribution application Periscope and under 35 U.S.C. § 271(b) through its inducement of others to operate and use Periscope.

3. **Exhibits A – D** are claim charts identifying where each element of each asserted claim is found in the Accused Instrumentalities. A representative claim chart comparing the asserted claims of the '304 patent to Vine is attached as **Exhibit A**. A

representative claim chart comparing the asserted claims of the '506 patent to Vine is attached as **Exhibit B**. A representative claim chart comparing the asserted claims of the '304 patent to Periscope is attached as **Exhibit C**. A representative claim chart comparing the asserted claims of the '997 patent to Periscope is attached as **Exhibit D**. These claim charts are based on a reasonable investigation of publicly-available information, and Youtoo reserves the right to supplement these charts based upon further discovery and investigation.

4. As presently advised, Youtoo contends that each element of the asserted claims of the Patents-in-Suit is literally present in or practiced by the Twitter Accused Instrumentalities. Youtoo reserves the right to assert the doctrine of equivalents based on Twitter's non-infringement positions, information and materials produced during discovery, additional analysis of the Accused Instrumentalities, and/or the Court's construction of any disputed claim term or phrase.

5. The '304 is a continuation-in-part of U.S. patent application No. 13/013,775, filed on January 25, 2011. The '304 patent was issued by the United States Patent and Trademark Office ("USPTO") on June 11, 2013. As presently advised, Youtoo contends that the asserted claims of the '304 patent are entitled to a priority date at least as early as July 18, 2011.

The '506 patent is a continuation of application No. 13/185,471, filed July 18, 2011, which is a continuation-in-part of application No. 13/013,775, filed January 25, 2011.

The '506 patent was issued by the USPTO on December 3, 2013. As presently advised, the asserted claims of the '506 patent are entitled to a priority date at least as early as July 18, 2011.

The '997 patent is a continuation of application No. 13/475,765, filed on May 18, 2012, now Patent No. 8,311,382, which claims priority to provisional application No. 61/644,409 filed May 9, 2012. The '997 patent was issued by the USPTO on July 14, 2015. As presently advised, Youtoo contends that the asserted claims of the '997 patent are entitled to a priority date as least as early as May 9, 2012.

6. As presently advised, the Youtoo products which practice the asserted claims of the Patents-in-Suit are indicated in **Exhibit E**.

Respectfully submitted,

/s/ Olivia Luk Bedi

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