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20 Attorneys for Plaintiff,
21 BlackBerry Limited

22 IN THE UNITED STATES DISTRICT COURT
23 FOR THE CENTRAL DISTRICT OF CALIFORNIA

24 BLACKBERRY LIMITED, a)
25 Canadian corporation,)
26)
27 Plaintiff,)

28 v.)

29 FACEBOOK, INC., a Delaware)
30 corporation, WHATSAPP INC., a)
31 Delaware corporation, and)
32 INSTAGRAM, INC., a Delaware)
33 corporation, and INSTAGRAM, LLC,)
34 a Delaware limited liability company)

35 Defendants.

CASE NO. 2:18-cv-01844

**[FIRST AMENDED]
COMPLAINT FOR PATENT
INFRINGEMENT**

JURY TRIAL DEMANDED

1 **COMPLAINT FOR PATENT INFRINGEMENT**

2 Plaintiff BlackBerry Limited (“BlackBerry” or “Plaintiff”) hereby asserts the
3 following claims for patent infringement against Defendants Facebook, Inc.,
4 WhatsApp Inc., Instagram, Inc., and Instagram, LLC (collectively, “Defendants”),
5 and alleges as follows:

6 **SUMMARY**

7 1. ***BlackBerry Pioneers Mobile Messaging*** - BlackBerry has been a
8 leading innovator in the field of mobile communications for the past 30 years,
9 having invested substantial sums into research and development of communications
10 technologies. BlackBerry’s innovations led to the commercialization of some of the
11 earliest models of smartphones in the United States, enabling its users to, among
12 other things, send and receive e-mails securely and surf the internet anytime and
13 anywhere. These same innovations prompted the rise of the smartphone as a
14 necessary everyday accessory for businesspersons and ordinary consumers alike.

15 2. One example of BlackBerry’s innovations is the BlackBerry Messenger
16 technology, which revolutionized instant messaging by providing users with secure,
17 user-friendly, point-to-point instant messaging on their mobile devices. In many
18 respects, through BlackBerry Messenger and other research and development,
19 BlackBerry helped pioneer modern mobile messaging—secure, instant and user
20 friendly on a mobile device. The appeal and success of BlackBerry Messenger led
21 consumers to consider instant messaging functionality as an integral aspect of
22 mobile communications, resulting today in billions of people worldwide engaging in
23 instant messaging over their mobile device.

24 3. As an innovator, BlackBerry took many steps to safeguard this valuable
25 intellectual property. It received numerous patents protecting the cutting-edge
26 features of its mobile phones, BlackBerry Messenger, and other communications
27 applications that make such products secure, easy-to-use, and ultimately engaging to
28 the end-user, thereby driving user growth and retention.

1 4. ***Facebook and its Companies Later Develop Competing Applications***
2 ***that Improperly Use BlackBerry's Mobile Messaging Intellectual Property*** -
3 Defendants, on the other hand, are relative latecomers to the mobile messaging
4 world. Defendants created mobile messaging applications that co-opt BlackBerry's
5 innovations, using a number of the innovative security, user interface, and
6 functionality enhancing features that made BlackBerry's products such a critical and
7 commercial success in the first place. These include the features covered by the
8 Patents-in-Suit.

9 5. The Patents-in-Suit cover, for example:

10 (a) ***Security Improvements***—improved cryptographic techniques that
11 establish and maintain security over user messages and provide the requisite
12 trust necessary for user adoption of a messaging platform for their
13 communication needs;

14 (b) ***User Interface Improvements For Mobile Devices***—including (i)
15 improvements in message notification techniques that streamline and
16 optimize reception of new message notifications that prevent users from being
17 inundated with numerous messaging notifications, (ii) display of timestamps
18 in a messaging user interface that provides users with appropriate temporal
19 context for their communications without overtaking the user's screen with
20 unnecessary information, and (iii) tagging friends and family in social media
21 photographs;

22 (c) ***Combining Mobile Gaming And Mobile Messaging***—allowing users to
23 more easily interact while playing electronic games;

24 (d) ***Battery Efficient Status Updates for Mobile Devices***—improved
25 techniques for transmitting status updates based on whether a second device is
26 viewing the status updates, to reduce power consumption and improve battery
27 life in mobile devices; and

28 (e) ***Mobile Advertising***—improved techniques of delivering targeted

1 advertising and content to mobile devices based on user demographics and
2 interest, as well as the location of the user’s mobile device and time-based
3 triggers.

4 These features, all invented by BlackBerry, are “table stakes” for modern
5 mobile messaging and social networking.

6 6. Thus, Defendants have used BlackBerry’s own intellectual property to
7 compete with it in the mobile messaging space. These applications are ever
8 expanding, including Facebook Messenger, Facebook Messenger Lite, Facebook
9 Pages Manager, Facebook.com and Facebook Workplace Chat, the WhatsApp
10 Messenger application made by WhatsApp Inc., and the Instagram application made
11 by Instagram, Inc. and Instagram, LLC. The importance of mobile messaging is
12 emphasized by the reported \$19 billion dollars Facebook spent to acquire
13 WhatsApp.

14 7. ***Defendants’ Use of BlackBerry’s Mobile Messaging Innovations***
15 ***Harms BlackBerry and Provides Undeserved Windfall to Facebook and its***
16 ***Companies***—Defendants’ use of BlackBerry’s invention and infringement of the
17 Patents-in-Suit, has succeeded in diverting consumers away from BlackBerry’s
18 products and services and toward those of Defendants. This has resulted in a
19 substantial and undeserved windfall for Defendants as these users drive Defendants’
20 revenue. Defendants’ gain comes at BlackBerry’s expense, depriving BlackBerry of
21 revenue to which it is entitled as a result of its inventions.

22 8. BlackBerry attempted to resolve this dispute without resorting to
23 litigation. It first reached out to Defendants Facebook’s and WhatsApp’s respective
24 General Counsel in April 2016 – nearly two years ago – regarding BlackBerry’s
25 patent portfolio, and followed up with additional communications including emails,
26 calls, and requests for a meeting. Defendants, however, refused to adequately
27 compensate BlackBerry for their use of BlackBerry’s intellectual property. Through
28 this suit, BlackBerry seeks redress for the harm caused by Defendants’ unlawful use

1 of BlackBerry's intellectual property.

2 **INTRODUCTION TO BLACKBERRY**

3 9. For more than 30 years, BlackBerry has been a leading innovator in the
4 mobile communications industry. BlackBerry's cutting-edge wireless
5 communication products and services have transformed the way people around the
6 world connect, converse, and share digital information.

7 10. BlackBerry was founded in 1984 in Waterloo, Ontario by two
8 engineering students, Mike Lazaridis and Douglas Fregin. In its early years, the
9 company—then named Research In Motion (“RIM”)—focused its inventive
10 energies on wireless data transmission.

11 11. From its modest beginnings more than 30 years ago, BlackBerry has
12 gone on to offer a portfolio of award-winning products, services, and embedded
13 technologies to tens of millions of individual consumers and organizations around
14 the world, including governments, and educational institutions. By transforming the
15 way people communicate, BlackBerry laid a foundation for today's multibillion-
16 dollar modern smartphone industry. BlackBerry's innovations in mobile
17 communications continue to this day through BlackBerry's award-winning software
18 platform and devices, which enable and manage security, mobility, and
19 communications between and among hardware, programs, mobile applications, and
20 the Internet of Things (IoT).

21 12. In the course of developing its ground-breaking mobile
22 communications systems, BlackBerry (and the BlackBerry family of companies) has
23 invented a broad array of new technologies that cover everything from enhanced
24 security and cryptographic techniques, to mobile device user interfaces, instant
25 messaging functionality, communication servers, and many other areas. To take just
26 one example, security posed a critical challenge for BlackBerry to address when
27 bringing its mobile devices to market. Commercial acceptance of such mobile
28 devices required providing mechanisms to ensure safe and secure communications

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