



4. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because the action concerns infringement of a United States patent.

5. Snapchat conducts substantial business in Delaware, directly or through intermediaries, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct and/or deriving substantial revenue from goods and services provided to individuals in Delaware. Further, this Court has personal jurisdiction over Snapchat because it is incorporated in Delaware and has purposely availed itself of the privileges and benefits of the laws of the State of Delaware.

6. Venue is proper under 28 U.S.C. §§ 1391 and 1400.

#### **The Patent-in-Suit**

7. TLI is the owner of the '295 Patent entitled "Apparatus and Method for Recording, Communicating and Administering Digital Images," which the United States Patent & Trademark Office lawfully and duly issued on March 14, 2000. A true and correct copy of the '295 Patent is attached hereto as Exhibit A.

#### **Factual Background**

8. Dr. Heinz Mattes is the named inventor of the '295 patent.

9. The '295 patent claims priority to an application filed on June 17, 1996. The '295 patent was originally assigned to Siemens Aktiengesellschaft of Munich, Germany. TLI is the current owner of the '295 patent via assignment.

10. In the mid 1990's, Dr. Mattes, while working as a scientist for Siemens, recognized that mobile telephony and digital photography, each then in their infancy, would likely become more and more popular. Dr. Mattes recognized that mobile telephones could be

integrated with digital cameras, resulting in a proliferation of the quantity of digital images that could and would be taken.

11. Dr. Mattes invented a revolutionary way of communicating and recording such digital images, which allowed numerous images to be simply and quickly recorded, tracked, accessed and transmitted.

12. In 1996, Dr. Mattes' invention was among the winners of a Siemens idea competition, leading to Siemens initiating a project to develop a cellular telephone with an integrated camera.

13. The '295's patented inventions are applicable to the uploading and organization of digital images from a telephone. Over the past few years, smart cellular telephones that incorporate sophisticated digital cameras have exploded in popularity, as has social media. Today, hundreds of millions of digital images are uploaded onto computer servers and social media websites every day, including via [www.snapchat.com](http://www.snapchat.com). Snapchat's products use the '295's patented technology, without license or authority, to classify those images so that they can be easily uploaded, stored, organized, retrieved and shared.

### **Snapchat's Infringing Products**

14. Snapchat owns and operates widely used image-based social networking services including image messaging and image hosting. Snapchat's revenues are attributed to, among other things, display advertising and fee-based services.

15. Snapchat purported that in 2012, users sent over 1000 "Snaps"<sup>1</sup> per second.

16. Snapchat offers websites, software and downloadable applications, especially designed for mobile devices having telephones, including iPhone and Android mobile telephones, and other mobile telephone platforms, which allow telephone users to easily

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<sup>1</sup> <http://blog.snapchat.com/page/2>.

characterize and upload digital images to Snapchat servers. On information and belief, Snapchat's website can be directly accessed from many mobile telephones, which also uploads digital images characterized with user-information. In addition, Snapchat provides downloadable applications, which also provide for uploading digital images to Snapchat servers. Snapchat entices its users to upload digital images by providing easy-to-use platforms and instructions, and Snapchat stores and archives the digital images uploaded to its servers using the characterization information provided by its users. As a result, visitors are attracted to Snapchat where they can easily view, retrieve and share those images, resulting in more visitors to Snapchat, and increased Snapchat revenues.

17. So that these digital images could be captured, uploaded, stored and organized, Snapchat fashioned products and processes that, on information and belief, employ TLI's patented technology. The infringing products include, but are not limited to, the products and processes that Snapchat uses to capture, upload, store and organize the digital images it receives from mobile devices having telephones, including via [www.snapchat.com](http://www.snapchat.com) and messaging. Discovery is expected to uncover the full extent of Snapchat's unlawful use of TLI's patented technology beyond these accused infringing products already identified through public information.

#### **CLAIM FOR RELIEF (Infringement of the '295 Patent)**

18. TLI incorporates by reference paragraphs 1 through 17 of the Complaint as if set forth here in full.

#### **Direct Infringement**

19. Snapchat has been and is currently directly infringing one or more claims of the '295 Patent by making, using, offering to sell, and/or selling within the United States, and/or importing into the United States, without authority, the aforementioned platforms that upload and

store digital images from mobile devices having telephones. For example, and without limitation, Snapchat has directly infringed and continues to directly infringe the '295 Patent in this judicial district and elsewhere in the United States. Snapchat's infringement includes, without limitation, (i) making and using the apparatus of claim 1 and claims dependent thereon, and (ii) practicing the method of claim 17 and claims dependent thereon.

20. Specifically, Snapchat's direct infringement includes, without limitation (i) its uploading of digital images from mobile devices having telephones onto Snapchat servers (or onto servers operated on or for Snapchat's behalf ("Snapchat servers")), (ii) its testing of its Snapchat products by uploading images from mobile devices having telephones onto Snapchat servers within the United States, and (iii) its maintaining Snapchat servers that categorize and store images that were uploaded via mobile devices having telephones. Snapchat also directs and/or controls its employees, executives, customers and agents to use the aforementioned digital image uploading platforms to upload images from mobile devices having telephones onto Snapchat servers within the United States.

21. To the extent that claim 1 of the '295 Patent is construed to require a system with a claim element not practiced by Snapchat, Snapchat would also directly infringe claim 1 at least because it directs and/or controls the practicing of all claim elements or because it places the invention into service. For example, Snapchat provides websites, platforms and software to mobile telephone users that provide and enable image uploading, thereby putting the invention into service. Moreover, Snapchat directs and/or controls the practicing of all claim elements, as shown for example, by Snapchat entering into contracts with its users, Snapchat instructing its users how to upload digital images from mobile devices having telephones, Snapchat automatically syncing digital images from mobile devices having telephones onto its servers,

Snapchat automatically uploading digital images from mobile devices having telephones onto its servers, Snapchat automatically tagging digital images that it uploads onto its servers from mobile devices having telephones with characterization information of the users, and Snapchat automatically archiving the digital images that it uploads onto its servers with characterization information of the users.

22. To the extent that claim 17 of the '295 Patent is construed to require a method with a step not practiced by Snapchat, Snapchat would also directly infringe claim 17 at least because it directs and/or controls the practicing of all claimed steps. Snapchat directs and/or controls the practicing of all claim elements, as shown for example, by Snapchat entering into contracts with its users, Snapchat instructing its users how to upload digital images from mobile devices having telephones, Snapchat automatically syncing digital images from mobile devices having telephones onto its servers, Snapchat automatically uploading digital images from mobile devices having telephones onto its servers, Snapchat pre-loading image uploading software on mobile devices having telephones, Snapchat automatically tagging digital images that it uploads onto its servers from mobile devices having telephones with characterization information of the users, and Snapchat automatically archiving the digital images that it uploads onto its servers with characterization information of the users.

23. At least as a result of the computer software and hardware that performs these activities, Snapchat is liable for literal direct infringement of the '295 Patent pursuant to 35 U.S.C. § 271(a).

24. To the extent that any fact finder deems any of the elements of the '295 patent claims not literally satisfied by the structure or use of the Snapchat platform, these elements are satisfied under the doctrine of equivalents.

**Indirect Infringement**

25. Alternatively, and in addition to its liability for direct infringement of the '295 Patent, Snapchat is also liable for indirectly infringing the '295 Patent in this judicial district and elsewhere in the United States by inducing direct infringement in violation of 35 U.S.C. § 271(b) and contributing to direct infringement in violation of 35 U.S.C. § 271(c).

26. Snapchat has been aware of the '295 Patent since at least November 20, 2013, when it was served with the original complaint in this action (D.I. 1), which was filed on November 18, 2013. The original complaint is incorporated herein by reference.

27. Upon Snapchat's gaining knowledge of the '295 patent, it was, or became, apparent to Snapchat that the operation of its digital image uploading platforms and software resulted in infringement of the '295 Patent. Snapchat has continued to engage in the aforementioned activities constituting inducement of infringement, notwithstanding its knowledge (or willful blindness thereto) that the activities it was inducing result in infringement of the '295 Patent.

28. The direct infringement induced and contributed to by Snapchat includes at least the uploading of digital images from mobile devices having telephones to Snapchat servers by end users acting alone or in combination with Snapchat. For example, and without limitation, to the extent that claim 1 is construed to require a system with the system placed into service by a user who uploads digital images from a mobile device having a telephone (and it is determined, for example, that Snapchat does not direct and/or control that user), the user would be considered to be a direct infringer of claim 1. Snapchat knows that these users are infringing the '295 Patent and Snapchat has specific intent to encourage the users to infringe the '295 Patent. As another example, to the extent that claim 17 is construed to require a method with steps performed by

one or more entities other than Snapchat, for example, a user (and it is determined, for example, that Snapchat does not direct and/or control these entities), Snapchat induces those entities to perform those infringing acts, knowing that the acts constitute infringement of the '295 Patent and with specific intent to encourage those acts and encourage infringement.

29. Snapchat encourages direct infringement of the '295 Patent at least by widely publicizing its social network, by providing image-uploading software, by automatically syncing images from mobile devices having telephones, by automatically tagging images uploaded from mobile devices having telephones, by automatically characterizing images with user information when uploaded from mobile devices having telephones, by providing image storage, by storing images uploaded from mobile devices having telephones according to user-characterization information, by providing image-uploading, downloadable applications for mobile devices having telephones, and by providing instructions for conducting the directly infringing use of uploading digital images from mobile devices.<sup>2</sup>

30. Snapchat induces infringement at least by encouraging, facilitating and instructing users to use the '295 Patent's inventions by uploading digital images to Snapchat servers from mobile devices having telephones. Snapchat does this by providing image uploading software and platforms to its users, and by instructing its users how to upload images to Snapchat servers, thereby inducing the use of the claimed inventions.<sup>3</sup>

31. Snapchat is inducing infringement of the '295 Patent by, among other things, knowingly and with specific intent, actively encouraging its customers, suppliers, agents and

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<sup>2</sup> See, for example, <http://support.snapchat.com/a/create>; <http://support.snapchat.com/a/post-story>; <http://mashable.com/2013/12/23/snapchat-update-replay/>; <https://itunes.apple.com/us/app/snapchat/id447188370>; <https://play.google.com/store/apps/details?id=com.snapchat.android&hl=en>.

<sup>3</sup> See *id.*



affiliates to make, use, sell and/or offer for sale the aforementioned Snapchat image uploading platforms in a manner that constitutes infringement of one or more claims of the '295 Patent, knowing that such activities infringe at least one claim of the '295 Patent, and with the knowledge and specific intent to encourage, direct and facilitate those infringing activities, including through the creation and dissemination of promotional and marketing materials, instructional materials, product materials and technical materials.

32. By inducing its customers', suppliers', users', agents' and affiliates' use of the methods claimed in the '295 Patent and their making and/or using the aforementioned Snapchat image uploading platforms, Snapchat has been and is now indirectly infringing under 35 U.S.C. § 271(b) one or more claims of the '295 Patent, either literally or under the doctrine of equivalents.

33. Snapchat contributes to the '295 Patent's direct infringement by, among other things, knowingly and with specific intent, actively encouraging its customers, suppliers, agents, users and affiliates to make, use, sell and/or offer for sale Snapchat's aforementioned image uploading platforms and services that constitutes infringement of at least claims 1 and 17 of the '295 Patent. For example, to the extent that any claim is construed to require a system, Snapchat provides components, including image-uploading, pre-loaded software, websites and/or downloadable applications, for use in systems, which facilitate the uploading of digital images from mobile devices having telephones. Snapchat knows that such products constitute a material part of the inventions of the '295 Patent, knows those products to be especially made or adapted to infringe the '295 Patent, and knows that those products are not staple articles or commodities of commerce suitable for substantial non-infringing use. Snapchat knows that by providing such components to its customers, its customers will infringe at least one claim of the '295 Patent, and

Snapchat knows that its customers do infringe the '295 Patent. Snapchat image uploading software has no substantial non-infringing uses.

34. By contributing to its customers', suppliers', agents', users' and affiliates' use of the methods claimed in the '295 Patent and their making and/or using the aforementioned Snapchat image uploading platforms, Snapchat has been and is now indirectly infringing under 35 U.S.C. § 271(c) one or more claims of the '295 Patent, either literally or under the doctrine of equivalents.

#### **271(f) Infringement**

35. Snapchat is liable for infringement under 35 U.S.C. § 271(f) when the end user is outside the United States by supplying its software components for combination outside the United States.

#### **Joint Infringement**

36. Alternatively, the actions alleged above establish joint infringement of at least claims 1 and 17 by Snapchat and its customers, users, suppliers, agents and affiliates for which they should be found jointly and severally liable.

#### **Remedy for Snapchat's Infringement**

37. As a result of Snapchat's unlawful infringement of the '295 Patent, TLI has suffered and will continue to suffer damage. TLI is entitled to recover from Snapchat the damages adequate to compensate for such infringement, which have yet to be determined.

38. Snapchat will continue to infringe the '295 Patent unless and until it is enjoined by this Court.

39. Snapchat's acts of infringement have caused and will continue to cause irreparable harm to TLI unless and until Snapchat is enjoined by this Court.

**PRAYER FOR RELIEF**

WHEREFORE, TLI prays for a Judgment in favor of TLI and against Defendant as follows:

- A. That Snapchat has directly infringed the '295 Patent;
- B. That Snapchat has indirectly infringed the '295 Patent;
- C. That Snapchat and its customers, users, suppliers, agents and affiliates have jointly infringed the '295 Patent;
- D. An order preliminarily and permanently enjoining Defendant and its affiliates, subsidiaries, officers, directors, employees, agents, representatives, licensees, successors, assigns, and all those acting for it and on its behalf, or acting in concert with it directly or indirectly, from further acts of infringement of the '295 Patent;
- E. A full accounting for and an award of damages to TLI for Defendant's infringement of the '295 Patent; including enhanced damages pursuant to 35 U.S.C. § 284, together with pre- and post-judgment interest;
- F. That this case is "exceptional" within the meaning of 35 U.S.C. § 285;
- G. An award of TLI's reasonable attorneys' fees, expenses, and costs; and
- H. A grant of such other and further equitable or legal relief as this Court deems proper.

**DEMAND FOR JURY TRIAL**

TLI hereby demands trial by jury on all issues so triable.

Dated: February 10, 2014

Respectfully submitted,

**FARNAN LLP**

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